

Certifying Officers and P.S. V. Examiners. For the certification of fitness of public service vehicles "certifying officers" may be appointed to examine vehicles and issue certificates of fitness. For the purpose of the inspection of public service vehicles examiners may be appointed. Arrangements may be made with any police authority for policemen to be appointed examiners, if the Secretary of State agrees. Any certifying officer or examiner, on production, if so required, of his authority may enter and inspect any public service vehicle, and for that purpose may require a public service vehicle to be stopped or may enter premises. Obstructing him or failing to so stop a vehicle is an offence (s. 123).

Certificates of fitness and their effect. A public service vehicle licence for a motor vehicle adapted to carry eight or more passengers shall not be granted unless a "certificate of fitness" has been issued and is in force in respect to the vehicle.

The Minister of Transport and a certifying officer have power to revoke a certificate of fitness. If the certificate is revoked or if the vehicle ceases to be a vehicle in respect of which such a certificate is in force, its licence ceases to be of effect (s. 129).

Conditions of Fitness Regs. 1958 and 1959. A certificate of fitness shall not be issued unless the vehicle complies with the conditions prescribed in these Regulations. The conditions deal with the stability, suspension, turning circle, clearance, life guards, guard rails, side overhang, brakes, steering, hub projection, fuel tanks, carburettors, exhaust pipes, locking of nuts, electrical equipment, body, steps, platforms, stairs, entrances, exits, doors, gangways, seats, windows, markings, ventilation, driver's accommodation, windscreens and wipers, passengers' communication with driver, wireless apparatus, luggage racks, general construction, etc.

Notice of failure in, damage or alteration to P.S.V.'s. The holder of a public service vehicle licence must report to the Traffic Commissioners.

(a) of the area where it occurs, any failure of or damage to the vehicle calculated to affect the safety of the public;

(b) of the area in which licence was issued, any alteration of the vehicle (s. 132).

Failure to do so is an offence (s. 132).

Suspension of P.S. V. Licences for defects. If a certifying officer or examiner finds that a public service vehicle is or is likely to become unfit for service unless its defects are remedied, he may suspend the licence, and shall so notify the licensee and the Traffic Commissioners which granted the licence. Suspension lasts until removed (s. 133).

provide such a road service as may be specified therein. A vehicle

shall not be used as a stage carriage or an express carriage except under such a licence.

It is an offence for any person to use or cause or permit to be used a vehicle in contravention of this section, or for the holder of a road service licence to wilfully or negligently fail to comply with any condition attached to his licence. A road service licence will be necessary in respect of any route, (s. 134.)

for the area which embraces the proposed route, but it will not authorise the use of a vehicle as a stage carriage or express carriage in any other Traffic Commissioners' area unless it has been "backed". The Traffic Commissioners may attach to a road service licence such conditions as they may think fit, and may vary them from time to time. When a road service licence is granted, the Commissioners shall send particulars to every chief officer of police and every local authority in whose district or area any such service is to be provided, (s. 135.)

The Traffic Commissioners may revoke or suspend a road service licence for non-compliance with its conditions and if so shall notify the police and local authorities of the places concerned (s. 136).

Backing of road service licence. A road service licence granted for one traffic area may be backed by the Traffic Commissioners for another traffic area, and if so backed shall have effect as if it

licences for "corridor areas" (where passengers are merely carried through another traffic area) need not be so backed (s. 138).

Duration of Road Service Licence. Under s. 139 R.T. Act 1960, the Public Service Vehicles (Duration of Road Service Licences) Regs. 1937 and 1938 prescribe that the licence may be for one or more periods or occasions, or the date of its expiry may be fixed. It is usually three years.

Particulars to be provided by applicants for Road Service Licences. S. 140 sets out the particulars which an applicant for and a holder of a road service licence must submit to the

agreements with other operators etc.

Appeals in connection with Licences and Certificates for Public Service Vehicles. S. 143 gives a right of appeal to the Minister of Transport in connection with the refusal, granting etc. of public

fitness.

Public Service Vehicles (Licences and Certificates) Kegs. 1952, 1957, 1960, 1961 and 1962. The holder of a road service licence, or

principal place of business on request of any police officer, certify

The fee for a public service vehicle licence is £8 10s. *Od.* (Reg. 17.) The licence shall be carried in a container on the left side of the

be clearly legible (Reg. 19). If the vehicle is let on hire and used as a stage or express carriage, there shall be a notice on the front or on the near side of the vehicle bearing the words " On hire to "

it is used (Reg. 20).

The fee for a certificate of fitness is £5 10s. *Od.* (Reg. 24). Change of ownership does not render the certificate invalid (Reg. 26).

An application for a road service licence or backing (to allow running in another traffic area) shall be accompanied by a notice giving the prescribed particulars of the service (Reg. 39). This notice will be published in the " Notices and Proceedings" periodically issued by the Commissioners of the area, which also contains the dates and places of their public sittings to hear applications, and their decisions (Reg. 41).

(Reg. 43). The fee for the licence is £1 for each year or part of a year. If not for more than 3 days the fee is 2/- per day (Reg. 44). The dates prescribed for the expiry of licences and backings are the last days of February, June and November (Reg. 45). The Commissioners may vary conditions already imposed, on giving notice to persons affected (Reg. 46). A special occasion service may be licensed (fee 5/-) (Reg. 47). If the licensee ceases to operate

Drivers' and Conductors' Licences. R.T. Act 1960. A person shall not drive or act as conductor of a public service vehicle on a

person shall not employ any unlicensed person to drive or act as conductor of a public service vehicle on a road.

A person is disqualified for such a driver's licence until he is 21, and for such a conductor's licence until he is 18.

A driver's licence may be limited to such types of vehicles as may be specified in the licence.

A licence as driver or conductor may be suspended or revoked by the Authority who granted it if the holder is considered unfit to hold it by reason of his conduct or physical disability.

Any contravention of this section will be an offence.

Application for licence shall be made to the Authority of the area in which the applicant resides. It may last three years from the date on which it takes effect, unless previously revoked, and if suspended shall be of no effect during the time of suspension. It will be valid in every traffic area (s. 144).

applicant shall supply the prescribed information, which includes a certificate of character and a medical certificate (Reg. 5). The fee

his ordinary signature (Reg. 8), but shall write nothing else on it (Reg. 9). A licensee shall notify any change of address within

at which it will be available for the next 5 days, on request of any constable, certifying officer, public service vehicle or goods vehicle examiner or person duly authorised by the Licensing Authority (Reg. 11).

He shall be issued a badge (the property of the Minister) bearing a distinguishing letter and number and shall wear it in a conspicuous position when acting as driver or conductor (Reg. 14). If his licence is suspended or revoked he shall return the licence and badge (Regs. 13, 15). He shall report any loss, defacement, etc., of his licence or badge (Regs. 12, 17). He shall keep the

by any other person (Reg. 19).

An appeal to Summary Courts in connection with the refusal, revocation, suspension, etc., of drivers' and conductors' licences is permitted by s. 145.

Regulations as to the conduct of drivers and conductors may be made, and failure to comply with any of the provisions of the

the Court, shall produce the licence within a reasonable time for endorsement, and failure to do so is an offence (s. 146).

of passengers in public service vehicles and a breach of these

1946. A driver or conductor of a public service vehicle when acting as such, shall be civil, ensure the safety of passengers, correctly give the route, fare and destination, give his name and name and address of employer, and particulars of his licence to any constable or person having reasonable cause to ask for it, help any person having authority to examine the vehicles and shall not smoke in the vehicle on the journey or when passengers are on board (Reg. 4).

A driver when driving shall not talk with the conductor or other persons unless for safety reasons (Reg. 5). A conductor

see that the route, fare and destination notices are properly displayed, and shall not talk to the driver, except to stop the vehicle (Reg. 6).

the vehicle close to the left of the road and must not stop there unreasonably long (Reg. 7). A conductor of a stage or express carriage shall not delay unreasonably in signalling to the driver to start (Reg. 8).

shall not be disorderly, enter or alight save by the doors provided, impede passengers wilfully and unreasonably, enter or remain when told not to do so because the vehicle is full or not allowed to pick up there, travel on the upper deck unless occupying a seat, travel in any part which is not for passengers, wilfully interfere with the vehicle or with any person, distract the driver's attention save to stop the vehicle, signal the vehicle to start, damage or soil the vehicle, distribute in the vehicle any printed, etc., matter or advertising articles, wilfully interfere with any notice on the vehicle, use any noisy instrument in the vehicle or make excessive noise, throw money, bottles, litter, etc., out of the vehicle, throw out any article, flag, streamer, etc., overhanging the road, or obstruct any person in the course of his duty (Reg. 9).

Stage and Express Carriages: A passenger or intending passenger shall not smoke where smoking is prohibited or sell any article in the vehicle (Reg. 9). If his condition or clothing is offensive he shall not enter or remain in the vehicle after an authorised person has requested him to leave and tendered his fare if previously paid.

article, and requires the consent of an authorised person to have any bulky or cumbersome article. He shall not bring in any animal without the consent of an authorised person, or retain it after request to remove it (Reg. 10). He shall not use a defaced or altered ticket or an expired period or season ticket with intent to avoid payment of a fare or a non-transferable ticket issued to another person.

On request (unless he holds a ticket) he shall declare his journey, pay his fare and take his ticket, and shall show it when required or pay the fare. Leaving without paying and with intent to avoid payment will be an offence. At the end of his journey if required he shall surrender his ticket, and if requested, leave the vehicle. A season ticket holder shall, if required, give up his ticket at the expiry of the period (Reg. 11). An employee of the licensee is an " authorised person " (Reg. 2).

General Powers: Any passenger reasonably suspected of contravening these regulations shall give his name and address to the driver or conductor or to a constable, on demand. Any passenger contravening these regulations may be removed from the vehicle by the driver or conductor, or on request of the driver or conductor by any constable (Reg. 12).

Control of number of passengers.- The Public Service Vehicles and Trolley Vehicles (Carrying Capacity) Regs., 1954, direct

that the seating capacity of such vehicles shall be clearly marked either inside and visible from outside or on the rear or near side of the vehicle (Reg. 8).

The number of seated passengers shall not exceed the fixed carrying capacity (but if only children up to 15 and their attendants up to 6 persons are carried three children will count as two passengers except in certain 12-seater vehicles where only up to

(Reg. 3).

During peak traffic or to avoid hardship a stage carriage or trolley vehicle may carry standing passengers on the lower deck of a double decker or on a single decker, up to one third of the seating capacity on the deck, or eight, whichever number is the less (Reg. 4).

The Licensing Authority may authorise an express carriage to carry some standing passengers (Reg. 5).

No standing passengers shall be carried on a half decked vehicle or on the upper deck of a double decker or if there is any vacant seat or unless a conductor is carried, or on a public service vehicle with a seating capacity not exceeding 12 in respect of which the first certificate of fitness was issued on or after 11 April, 1958.

However the Licensing Authority may certify that a conductor is not required on the particular service on which a single decker is used (Reg. 7 as amended by 1958 Regs.).

If a person contravenes, or fails to comply with a provision,

Records of licences of Public Service Vehicles. The police and local authority are authorised to inspect, without payment, the record of all licences which shall be kept by the Licensing Authority (Records of Licences) Regs, 1933, and to take copies or extracts therefrom. Certified copies of entries made in this record are admissible in evidence (s. 156).

Returns to be provided by operators of Public Service Vehicles. It shall be the duty of a person carrying on the business of operating public service vehicles to keep such accounts and records as the Minister may require, and failure to comply is an offence (s. 157).

Further Public Service Vehicle Regulations. The following further Public Service Vehicle Regulations deal with the matters indicated by their descriptive titles, and prescribe the fine for contraventions:

Equipment and Use Regs. 1958. As regards the use of a public

and gangway shall be kept clear of obstruction but neither standing passengers nor the drawing of a gas-producing trailer shall be deemed obstruction (Reg. 6). No person shall be on the

right of the driver, who must not be obstructed in any way (Reg. 7).

The body, etc., shall be kept clean and in good condition (Reg. 8). The internal lamps shall be alight during the hours of darkness when passengers are carried (Reg. 9). Steering arms shall be kept free from rust (Reg. 10).

Petrol tanks shall not be opened or filled while the engine with a seating capacity for more than 20 passengers; but is not necessary on a single decked vehicle with a seating capacity for not more than 26 if no adult fare is less than 6^p., nor on any single decked vehicle if the traffic commissioner has certified that one is

substance shall be carried unless safely packed (Reg. 13). Name and address of licence holder shall be displayed on the near side

suitable and efficient fire extinguishing apparatus which must be maintained in good working order (Reg. 15).

a suitable receptacle, easily accessible and properly marked, -
tained in good condition. It must also carry a lifting jack (Reg. 16).

Lost Property Kegs. 1934, 1958, 1960. Any person who finds property accidentally left in a public service vehicle shall immediately hand it to the conductor (or driver if no conductor) (Reg. 4). The conductor shall search his vehicle for left property before or at the end of any journey. Within 24 hours he shall hand any such property to the operator of the service, or if he is going off duty, to his relief conductor, who has the like responsibility. However, if claimed by a person who satisfies the conductor that he is the owner, it shall be returned to such person forthwith without fee or reward and the conductor shall report the facts to the operator (Reg. 5).

Particulars of any found property shall reach the operator within 2 days and he shall keep a record of same, available at

Authority (Reg. 6). The operator is responsible for safe custody of such property, and if the name and address of the owner is readily ascertainable he should be notified by the operator (Reg. 7).

may give it to the conductor or sell it (Reg. 8). If such property is returned to the owner he shall pay the operator a fee of 1/-, and if the value exceeds 2s., an additional sum (one-twelfth of the value and not exceeding £4) as a reward to be paid to the conductor (Reg. 9) into whose possession the property first came (Reg. 11).

The operator, after 48 hours, may destroy or sell perishable

property (Reg. 10). The operator has the right to open bags, packages, etc., so as to trace the identity of owners or to ascertain the contents (Reg. 13). If property is claimed the operator may require the claimant to open the package, etc., and submit the contents for examination (Reg. 14). Contravention of or failure to comply with the regulations is a summary offence, fine not exceeding £5 (Reg. 15).

of a
breach of the Regulations as to the Conduct of Passengers in public service vehicles (s. 147) and the regulations for the control of the number of passengers (s. 148) proceedings for an offence un

except (a) by or on behalf of the Director of Public Prosecutions, or (b) by a person authorised in that behalf by the Traffic Commissioners, a chief officer of police or the council of a county, county borough or county district. But proceedings for an offence, by or on behalf of the Minister, may be taken for an offence under s. 157 (accounts, records and returns), (s. 161.)

Running of P.S.V.'s by local authorities. Except for slight amendments ss. 101-110 of Part V of the R.T. Act 1930, (which deal with the running of public service vehicles by local authorities) have not been affected by the R.T. Act 1960.

A local authority which operates a tramway, light railway, trolley vehicle or omnibus undertaking, may, as part of that undertaking, run public service vehicles on any road within their district, and with the consent of the Traffic Commissioners for the area in which any other road is situate they may run on that

The Act does not authorise a local authority to run a public service vehicle as a contract carriage or on certain roads and premises (s. 101). See P.S.V. (Travel Concessions) Act, 1955, allowing local authorities to allow free travel or reduced fares.

Goods Vehicles.- Users to hold Carrier's Licences. No person shall use a goods vehicle on a road for the carriage of goods (a) for hire or reward or (b) for or in connection with any trade or business carried on by him, except under a licence known as a "carrier's licence". This does not apply to the use of a vehicle in any case mentioned in the Thirteenth Schedule of the R.T. Act, 1960, which are as follows:

(1) The use of a farmer's goods vehicle (and trailer) under the Vehicles (Excise) Act, [1962], solely for that purpose ;

(2) The use of a vehicle (and trailer) where the excise duty

(3) The use for a purpose other than the carriage of goods for hire or reward of a trailer drawn by a vehicle constructed solely for the carriage of not more than seven passengers, exclusive of the driver and their effects.

(4) A public service vehicle duly licensed as such.

(5) A hackney carriage when used as such.

(6) A vehicle used for the purposes of funerals.

(7) A vehicle used for a local authority in road cleansing, watering, disposal of refuse, or for weights and measures or sale of food and drugs purposes.

(8) A vehicle used for police, fire brigade or ambulance purposes.

(9) A vehicle used for towing a disabled motor vehicle or for removing goods from a disabled vehicle.

(10) A vehicle used for miners' rescue purposes.

(11) The use of any vehicle for any purpose specified in Regulations or the use of a vehicle of any class or description specified in Regulations for any purpose.

A person who uses a vehicle in contravention of the above commits an offence.

The person by whom the vehicle is being used is the driver, if the vehicle belongs to him or is hired or loaned to him, and in any other case it will be the person whose agent or servant the driver

Where at any time goods are carried in a goods vehicle, being a vehicle which has been let on hire by the person who, at the time of the carriage of the goods, is the user of the vehicle, the goods shall be deemed to be carried by that person for hire or reward.

However, the following acts shall not be deemed to be a carrying of goods for hire or reward:

(1) delivery or collection of goods sold, used or hired in the course of his trade or business;

(2) delivery or collection of goods for process or treatment in the course of his trade or business;

(3) carriage by a person engaged in agriculture of goods in connection with the business of agriculture carried on by another person in the locality in a vehicle licensed under the Act (C. Licence) for carriage of goods in connection with his agricultural business;

(4) carriage of goods in a vehicle used under trade licence.

(5) carriage of goods in a vehicle used by a manufacturer, agent or dealer for demonstration purposes.

The performance by a local or public authority of its functions shall be deemed to be the carrying on of a business (s. 164).

The Chairman of the Traffic Commissioners of the area will grant these licences (s. 165).

Road and Rail Traffic Act (Exemption) Regs., 1957, further exempt from the necessity of having carriers licences the use of the following vehicles:

(a) Hired for Armed or visiting Forces purposes;

(b) Used for Civil Defence purposes;

(c) Without permanent bodies and on test, etc.;

- (d) Used between neighbouring premises;
- (e) Trailers used for road works;
- (f) Road rollers with road works trailers or water carts;
- (g) Tower wagons and their trailers;
- (h) Used for lifeboat purposes;
- (t) Used by highway authorities for weighing vehicles under s. 27. R.T. Act, 1930; (now: s. 224 R.T. Act 1960).
- (j) Used under limited trade licences;
- (k) Motor cars, dual purpose vehicles or motor cycles used by commercial travellers soliciting orders, etc., but not used for goods other than samples;
- (l) Pedestrian controlled vehicles;
- (m) Motorcars, dual purpose vehicles or motor cycles carrying the drivers' tools, etc., for their business;
- (») Used by doctors, nurses, dentists or veterinary surgeons for carriage of their instruments, etc.:
- (o) Passenger vehicles (not more than 7 seats) with trailer if no goods are carried for hire or reward;
- (/ >) Tractors, ploughing machines and other agricultural engines used for agricultural and similar purposes.
- (g) Farmers' dual purpose vehicles.
- (r) Vehicle with plant.
- (s) Vehicle distributing grit, salt etc., on roads.

- (a) public carriers' licences (" A " licences);
- (b) limited carriers' licences (" B " licences);
- (c) private carriers' licences (" C " licences).

An " A " licence entitles the holder to use the authorised

with his own business as a carrier of goods.

A " B " licence entitles the holder to use the authorised vehicle as he thinks fit from time to time (a) for the carriage of goods for or in connection with a trade or business carried on by him, or (b) subject to any conditions attached to the licence, for the carriage of goods for hire or reward.

A " C " licence entitles the holder (a) to use the authorised vehicle for the carriage of goods for or in connection with a trade or business carried on by him, or (b) if specially authorised in the case of emergency, to use an authorised vehicle for the carriage of goods in accordance with any conditions imposed by the authority, for any person to whom he lets the vehicle (s. 166).

There are conditions attached to these licences, and a person who fails to comply with a condition of a licence of which he is the holder, commits an offence (s. 168).

The Goods Vehicles (Licences and Prohibitions) Regs. 1960 and 1962 regulate the procedure for applications for licences: the publication of a periodical statement called "Applications and Decisions" (Reg. 8); the identification of authorised vehicles (Reg. 11); the fees for licences (Reg. 13); the production of licences (Reg. 17); the transfer of an authorised vehicle (Reg. 20); appeals to the transport tribunal (Reg. 22); and the currency period of carriers' licences (Reg. 25).

There shall be an "identity certificate" issued in respect of each vehicle authorised under a "carrier's licence". The holder of the licence shall cause the "identity certificate" to be affixed to the vehicle (or in the case of a trailer to the trailer or to the vehicle drawing it) in a water-proof container (a) in a conspicuous place on the left or near side of the vehicle, or (b) on the windscreen

trade licence, on the general trade plate at the front or at the rear of the vehicle, so that no material part of the plate is thereby obscured. The "identity certificate" must at all times be readily legible (Reg. 11).

The holder of a licence shall produce it for examination, if required to do so, by any police constable, any certifying officer or examiner, or by any person authorised by the licensing authority and may elect to do so at his base, head office or principal place of business (Reg. 17).

The currency periods for which a licence may be granted are: "A" licence 5 years; "B" licence 2 years; and "C" licence 5 years (Reg. 25).

A "Short term" licence of any of the above three classes of licence may be granted so as to allow goods vehicles to be used temporarily. On applications for licences "Short term" licences may be granted for 12 months ("A" licence); 6 months ("B" licence) or 3 months in any other case (s. 170).

Applications for carriers' licences shall be made on the prescribed forms. Notices of application for "A" and "B" licences will be published in "Applications and Decisions" and persons already providing transport facilities may submit objections (ss. 171, 172 and 173).

The licensing authority will have discretion to grant, or refuse, or vary "A" and "B" licences, but must grant "C" licences unless the applicant is the holder of a carrier's licence which is suspended or has been curtailed; or a carrier's licence previously held by the applicant has been revoked or curtailed, when the authority will have full power to grant or refuse the application. However, on an application for an "A" licence, the licensee may be allowed to use designated vehicles, on contract for not less than a year with a "non-carrying" person for the carriage of goods for that person's business (s. 174).

An applicant for a carrier's licence who is aggrieved by a

decision of the licensing authority may in certain circumstances appeal to the Transport Tribunal (ss. 175-178).

A person may hold two or more carriers' licences of the same or different classes. A licence is personal to the licensee (s. 179).

Maintenance of Goods Vehicles. " Examiners " shall be appointed to see that goods vehicles are maintained in a fit and serviceable condition and to secure the observance of the provisions of the R.T. Act 1960. An examiner may enter and inspect any goods vehicle and for that purpose may detain the vehicle, and he may at any time which is reasonable, enter any premises on which he has reason to believe that a goods vehicle is kept. It will be an offence to obstruct him in the performance of his duty. For good reason he may prohibit (by written notice) the use of a goods vehicle on a road for the carriage of goods, and disobedience of such a prohibition will be an offence (ss.

Records of hours of work etc. Current records shall be kept by holders of licences and these current records shall show:

(a) as respects every driver and attendant the times at which he commenced and ceased work and particulars of intervals of rest.

(b) as respects every journey of a vehicle on which goods are carried under the licence, particulars of the journey and of the greatest weight of goods carried and the description and destination of the goods carried (s. 186(1)). The above records shall not be required to be kept as respects (a) any journey made by a " C " licenced vehicle of unladen weight not exceeding 16 cwts. if no point of the journey exceeds five miles from its base ; or (b) the work or rest of any person during any period by reason only that during that period he is employed in driving such a vehicle on a journey fulfilling that condition. (R.T. Act 1962, s. 21).

The forms and keeping of these records are prescribed by the Goods Vehicles (Keeping of Records) Regs., 1935, which direct that drivers shall carry these records and make entries therein. Partial exemption is allowed in the case of vehicles used in the business of agriculture or of a travelling showman, and dispensations may be granted in particular cases.

Each record shall be preserved for three months, or longer if the Chief Officer of Police or the licensing authority so direct, and it shall be produced for inspection when so required by any person authorised by them (s. 186 (5)). In any proceedings against the holder of a carrier's licence under this section or of regulations made for the purposes thereof, it shall be a defence to prove that the holder used all due diligence to secure compliance with those provisions. (R.T. Act, 1962, s. 20).

A police constable and an examiner may at any time require

the vehicle (see Chap. 24, s. 227).

A person who, with intent to deceive, alters an entry in such a record, commits an offence (s. 234).

Offences and Penalties relating to goods vehicles. It is a mis-
months and (or) £100 fine) to forge, alter, or allow to be used
by another, any licence, or any document, plate or mark by
which an authorised vehicle is to be identified, or to have anything
calculated to deceive, or to alter an entry made in a record
under s. 186 of the Act. It is also an offence knowingly to make
any false statement for the purpose of obtaining the grant or

On reasonable belief that an offence, as above, has been com-
mitted in relation to any document or plate carried on a motor
vehicle or by its driver, a constable or examiner may seize the
document or plate and take proceedings (s. 237).

Definitions. " Authorised vehicle " means, in relation to a
carrier's licence, a vehicle authorised to be used thereunder,
whether or not it is for the time being in use for a purpose for

therein as so authorised, or being of a type so authorised subject
under an agreement for hire or loan, or, if a trailer, belongs to him or
is in his possession under an agreement for hire purchase,

" Carriage of goods " includes the haulage of goods. There-
fore, the Act applies to locomotives and tractors.

" goods " includes goods or burden of any description; " goods
vehicle " means a motor vehicle constructed or adapted
for use for the carriage of goods, or a trailer so constructed or
adapted (s. 191).

" tramcar " includes any carriage used on any road by virtue
of an order made under the Light Railways Act, 1896.

" trolley vehicle " means a mechanically propelled vehicle
adapted for use upon roads without rails and moved by power
transmitted thereto from some external source (s. 257). Motor
vehicle is a carriage. A motor vehicle or trailer shall be
deemed to be a carriage within the meaning of any Act, and of
any rule, regulation or byelaw made under any Act, and if
used as a carriage of any particular class shall for the purpose of
any enactment relating to carriages of any particular class be
deemed to be a carriage of that class (s. 256).

Thus generally speaking, all road vehicles are carriages and
owners and drivers have to comply with the law dealing with

carriages, as well as to obey the particular rules affecting the class of vehicle they own or drive.

Licensing of drivers of heavy goods vehicles. On and after the appointed day a person shall neither drive a heavy goods vehicle on a road unless he is licensed for the purpose or is licensed to drive all types of single-deck public service vehicles, nor employ

" Heavy goods vehicle " means a vehicle of any of the following classes which is constructed or adapted for hauling or carrying goods or burden of any description, that is to say, a heavy locomotive, a light locomotive, a motor tractor, a heavy motor car and a motor car so constructed that a trailer may by partial superimposition be attached thereto in such a manner as to cause a substantial part of the weight of the trailer to be borne thereby (ss. 192-199).

Mechanically Propelled Vehicles. In the interests of the public and of the State every mechanically propelled vehicle used on the roads comes under legal regulation in many ways. As indicated in Chapter 24 such vehicles are classified and speed limits are prescribed; driving licences are necessary and the use of such vehicles must be insured against third party risks. From the steam-driven heavy locomotive to the motor scooter, all have to contribute (unless specially exempted) to the revenue.

The Vehicles (Excise) Act, 1962, imposes excise duties and provides for their collection. In addition, the Act directs that motor vehicles should be registered and licensed, and that they

For the purposes of the Road Vehicles (Registration and

a motor scooter, a bicycle with attachment for propelling it mechanically and a motor bicycle used for drawing a trailer or sidecar) not exceeding eight cwt. unladen.

" Invalid carriage " means a mechanically propelled vehicle (including a cycle with attachment for propelling it mechanically) not exceeding 6 cwt. unladen, and adapted and used for an invalid or invalids.

vehicle is kept and used.

" Pedestrian controlled vehicle" means a mechanically propelled vehicle with 3 or more wheels, not exceeding 8 cwt. unladen and neither made nor adapted for use nor used for the carriage of a driver or passenger.

" Tricycle" means a mechanically propelled tricycle (including a motor scooter and a tricycle with attachment for mechanical propulsion) not exceeding *K* cwts. unladen and not being a pedestrian controlled vehicle.

" Works truck " means a mechanically propelled vehicle designed for use in private premises and used on a road only in passing from one part of any such premises to another or to other private premises in the immediate neighbourhood or in connection with road works while at or in the immediate neighbourhood of the site of such works. (Reg. 1 as amended by 1962 Regs.) The Road Traffic Act, 1960, provides for their construction and

use, and empowers the Minister of Transport to make regulations for the purpose. The law on these matters is summarised as follows:

1. Registration of Vehicles. By s. 1 and s. 4 of the Vehicles (Excise) Act, 1962, mechanically propelled vehicles used or kept on out appropriate licences.

Such duties are to be levied by the County and County Borough Councils (s. 5 and 24). See Road Vehicles (Excise Duties and

Every person applying for such licence must make a declaration and furnish the prescribed particulars to the Council (s. 8).

register the vehicle and assign it a registration mark (s. 13) which must be fixed on the vehicle or on any other vehicle drawn by it or on both in the prescribed manner (s. 13) and which will attach to the vehicle until it is broken up, destroyed or sent

prescribed declaration form either to the Council in whose area the vehicle will be ordinarily kept, or where the owner has not previously obtained or had transferred to him a licence for the vehicle, to the Council in whose area the vehicle is. In any case the Council of the area in which the vehicle is to be ordinarily kept will get all the records and the motor vehicle will be registered in its Register (Regs. 2 and 3).

Such owner (except the owner of a tramcar) will receive a registration book containing particulars as to the vehicle. This book must not be altered, defaced, etc., and must be produced at any reasonable time for inspection by a police officer or local taxation officer (Reg. 6).

If the character or use of a vehicle is altered so as to necessitate a higher rate of duty, the owner must make out a new declaration and send it with registration book and licence to the Council concerned (Reg 8).

If any other alteration is made in a vehicle affecting the particulars given in the last declaration made regarding the vehicle, the owner must notify same in writing to the Council concerned, sending also the registration book (Reg. 7).

On the sale or change of ownership of vehicle, the then owner must give the registration book to the new owner, and also notify in writing the change of ownership to the Council which has last registered the vehicle. The new owner, if he does not intend to use or keep the vehicle on the roads, must notify in writing the

use or keep the vehicle on the roads he must insert his name and address in the registration book and give it to the Council concerned and if he has not been given the current licence he must take out a licence. Where the vehicle is to be used under a trade licence and trade plates this notification is not necessary for three months, unless in the meantime the vehicle has been transferred to a new owner. The Council will return the book to him direct, or, if the vehicle is to be kept in the area of another Council, through that other Council, which will register the vehicle in its register (Reg. 9 as amended by 1957 and 1958 Regs.).

On a change of address the owner must enter his new address in the registration book and send the book to the Council concerned (Reg. 10).

When a vehicle is broken up, destroyed, or sent permanently out of Great Britain the owner must notify the Council concerned and send it the registration book (Reg. 11).

If a registration book is lost, destroyed, mutilated, defaced or illegible, the owner must apply to the Council concerned for a duplicate. Where a duplicate has been issued to replace a lost book, and the book is found later on, the owner must take all reasonable steps to regain it and return it to the Council (Reg. 12). Every Council must keep a " Register " (Reg. 19) and an extract from it certified as true by the official in charge is admissible in evidence (Evidence Act, 1851. s. 14).

any vehicle registered with it, to the police, to any other licensing authority, or in connection with parking place functions, to any other local authority or to the Customs and Excise free, and shall supply to any person showing reasonable cause the name and address of the owner and the particulars of the last licence 5s. fee (Reg. 27 as amended by 1958 and 1962 Regs.).

Where a mechanically propelled vehicle is exempt from licence duty, any licence issued is marked " Nil ". but in the case of such vehicle used exclusively on private roads, the owner must make the usual declaration, and he will get a registration book but not a licence (Reg. 33).

It is a summary offence to supply false or misleading particulars in any declaration for a licence (including a trade licence Finance Act, 1962, s. 5) or in any notification to a Council regarding any change in registration. It is also a summary offence to forge, fraudulently alter or use, or fraudulently lend or allow to be used by any other person any identification mark or licence or registration book under the Act (1962 Act, s. 17). An " expired

licence " is still a licence for the purposes of this section (*Taylor v. Emerson* (1962)).

2. Licensing of Vehicles. Under the Vehicles (Excise) Act, 1962, all mechanically propelled vehicles used or kept on a public road (that is a road repairable at the public expense, s. 24), except those vehicles specially exempted, must pay excise duties. These duties are to be paid upon licences to be taken out by the persons keeping same (s. 1 and 4). These licences are either general trade licences, limited trade licences or ordinary road fund licences (see later). The particulars to be furnished on application for such licences are given in the Road Vehicles (Excise) (Prescribed Particulars) Regs., 1957 and 1960.

It is an excise offence for any person to use or keep on a public road any such vehicle for which a licence is not in force (s. 7).

Where it is alleged that an unlicensed vehicle has been used or kept on a public road, the owner shall give any information required by police or Council as to the driver and any person using or keeping the vehicle, and any other person if so required shall give any information he can give as to the identity of any person using or keeping the vehicle. Failure to comply with above will be a summary offence (s. 18).

The licence is issued for the vehicle specified in the application and does not entitle the licensee to use any other vehicle (s. 8).

R. and L Regs., 1955. If the character or use of a vehicle is altered so as to render a higher rate of duty payable, the owner must make a fresh declaration and will receive an amended

If any alteration is made in a vehicle which affects the registration particulars, the owner shall notify the Council and send his registration book for amendment. If it affects the licence, the licence should be sent to the Council for an amended licence (Reg- 7).

When a licence has been taken out for a vehicle, and the vehicle is used in an altered condition or in a manner or for a purpose which renders it chargeable for a higher rate of duty the person so using such vehicle is liable to an excise penalty. However, the duty at a higher rate is not chargeable unless the vehicle as used satisfies all the conditions which would bring it into the class or description liable to the higher rate of duty (s. 10).

On sale or change of ownership, the former owner may deliver the licence, which is transferable with the vehicle. If this is not done the new owner must take out a licence for the vehicle (Reg. 9 as amended by R.V.L. Regs., 1957 and 1958).

Upon or not more than fourteen days before the expiration of a licence, application may be made either to the Council or to an authorised post office within the area, on the prescribed form, for a renewal of the licence, and the certificate of insurance

shall be produced. However, renewal cannot be made at a post office (i) after 14 days from the date of expiry; (ii) unless the old licence is delivered up to the post office; (Hi) to a person who lets such vehicles on hire if the vehicle in question is to be used solely for hiring out to be driven by the hirer or his agents (Reg. 17 as amended by R.V. (R. & L.) (A.) Regs., 1957). However, licences for tractors and goods vehicles are issued by County Councils (1953 Amendment Regs.).

The following mechanically propelled vehicles are exempt from excise duty by s. 6, Vehicles (Excise) Act, 1952:

Fire engines; vehicles kept by a local authority while being used or kept for the purposes of their fire brigade service; ambulances; road rollers; vehicles used on tram lines not being tram cars used for passengers; vehicles used or kept on a road solely for haulage of lifeboats and their gear; vehicles not exceeding 6 cwt. used or kept on a road for invalids; road construction vehicles used or kept on a road solely for such machinery on public roads; vehicles constructed or adapted, and used, solely

to deal with frost, ice or snow; Civil Defence vehicles (Regs. 1953); vehicles brought into Great Britain for the time being licensed under s. 1 or s. 10 of the Vehicles (Excise) Act (Northern Ireland) 1954, and "foreign" vehicles whose owners are making only a temporary stay (M. V. (International Circulation) Regs. 1957, Reg. 1).

A mechanically propelled vehicle shall not be chargeable with any duty by reason of its use on public roads on its way to or from a compulsory test, or when taking it to or from a place where

or during the test, by an examiner or a person acting under his personal direction. (R.T. Act, 1960. s. 65 and Vehicles (Excise)

Application must be made and a registration book and licence marked "Nil" is issued to be carried in the prescribed manner (R. & L. Regs., 1955, Reg. 33).

In the case of vehicles belonging to the Crown (except those used or appropriated for use for naval, military or air force purposes) declaration must be made, the vehicle is registered and given a registration mark. Registration books are not issued nor are licences. Every such vehicle shall carry a Certificate of Crown ownership. In the case of vehicles used exclusively on roads not repairable at the public expense and vehicles to be used on public roads solely in passing from land occupied by the owners to other land also occupied by the owners and for distances not exceeding a total of six miles in any week if so authorised by the Minister

registration book issued but no licence (Reg. 33).

A licence may be taken out for any period of 12 months or 4

from the beginning of the month it was taken out). Authorised trade goods vehicles exceeding 11 tons weight unladen may have short term road fund licences, (s. 2, Vehicles (Excise) Act, 1962).

The holder of a licence can surrender it and claim a refund of duty (s. 9). Duty paid may also be refunded on proof that the

1955, Reg. 28 and 1960 Regs.)

The council may require proof that the vehicle accords with the declaration made (Reg. 15) and may require proof of the unladen weight of a vehicle (Reg. 16).

A licence shall not be granted for a vehicle to which s. 66, R.T. Act, 1960 (obligatory test certificates) applies except after production of a test certificate issued during the preceding 12 months or on a declaration that the vehicle is not intended to be used except for the purpose or in an area where it may be used without a test certificate under the M. V. (Tests) (Exemptions) Regs. 1961 and 1962. (M. V. (Production of Test Certificates) Regs. 1962).

3. Trade Licences. These are special licences issued at lower rates to motor traders, viz. manufacturers, repairers, or dealers

wholly or mainly of collecting and delivering motor vehicles and not including any other activities except as manufacturer, repairer or dealer in motor vehicles shall be deemed to be a dealer in mechanically propelled vehicles. With such licences, special

mark or licence is necessary. A trade licence shall not authorise (Vehicles (Excise) Act, 1962, s. 12 and R. & L. Regs., 1955, Part II.

Trade licences are of two kinds the General Trade Licence and the Limited Trade Licence.

The following rules apply to both kinds of trade licences.

A trade licence contains:

- (1) Name and address of the person so licensed.
- (2) Number of identification plate allotted.
- (3) Date of expiry of licence.
- (4) Amount of duty paid.
- (5) Date stamp of office of issue.
- (6) Serial number of licence.

This trade licence must be carried in a holder attached to the supplied plate fixed in front of the vehicle, so as to be clearly visible at all times by daylight from the front of the vehicle when in use on a public road under that trade licence.

A trade licence must not be used by any person other than the person to whom it was issued, who must not allow or suffer it to be used by any other person. But no offence under this article is committed if the licensee or a person in his employment and

acting under authority is present and in charge of the vehicle or if it is a one-person machine being used by a prospective purchaser for test or trial. A trade licence must not be used on a vehicle other than a mechanically propelled vehicle which is in the possession of the licensee in the course of his business as maker, dealer, etc., or is a mechanically propelled vehicle which is for the time being laid up by its owner, and it must never be used on a vehicle which is being used for the conveyance of pas-

A trade licence may be taken out by a motor trader in pursuance of s. 12 of the Act in respect of (a) all vehicles used by him or (6) all vehicles used by him of the classes liable to duty

under s. 1 of the Act (mechanically propelled vehicles not exceeding 8 cwt. unladen such as bicycles, tricycles, etc.) (R. & L. Regs., 1955, Regs., 29, 30).

It should be noted that the lending or hiring out of trade plates is illegal. One or more trade licences of either or both kinds may be taken out, but only one vehicle may be on the road at

If the holder of a trade licence or licences uses on a public road than authorised by his licence or licences, he will commit a

One trade plate for front and one for rear of a vehicle are issued with each trade licence. They are the property of the Council

If trade plates are used (and they must be fixed in the manner prescribed for registration marks) on a vehicle no other registration

white (as described later). At present they are rectangular or square in form, and each plate bears a crown and " G.R' " or " E.R. " in a circle in the top right-hand corner. The letters on them must be those of the index mark allotted to the Council which issues the licence. The numbering will consist of four figures, the series running from 0001 to 0999. The square plate has the

first then the letters, all in line, and may be used on any vehicle.

Trade licences are of two kinds:

(1) General Trade Licence. It is subject to the rules given above. This licence shall not be used on a vehicle on a public road except for the purposes given in Reg. 29 of the 1955 Regs. viz.

(1) moving a laid up motor vehicle to another place of

(2) on a motor vehicle, with or without trailer, for any purpose connected with the business of maker, repairer or dealer in motor vehicles of the holder;

(3) on a motor vehicle drawing a trailer in connection with any business as a maker, repairer or dealer in trailers, carried on by the licensee in conjunction with his business as maker, repairer or dealer in motor vehicles;

(4) with or without a trailer whilst the motor vehicle is *bona fide* being used for any of the said purposes for any other additional purpose of the holder of the licence. (This does not authorise the use of the vehicle in connection with any social or recreational activity of the holder (1960 Amendment Regs.).

and figures thereon and a half-inch border all round the plate are white in colour.

There are two forms of general trade licence, viz.:

(a) That for all vehicles used by the licensee.

It costs £30. It is rectangular in shape and is carried in a rectangular holder fixed above the top of the rectangular front plate on cars, or in centre of square front plate on cycles. It is marked " G.T.P. ".

(b) That for all cycles under 8 cwt., tricycles and invalid carriages.

It costs £6. It is trapezoidal in shape and is carried in a trapezoidal-shaped holder in the centre of the square front plate. It is marked " G.T.P. for cycles and invalid carriages ".

(2) Limited Trade Licence. This licence is granted subject to the rules which apply to both kinds of trade licences. The holder may use it on a public road on a motor vehicle with or without a trailer for one or more of the following ten purposes:

- (1) Test or trial during or after construction or repair.
- (2) Proceeding to or from a public weighbridge or any place for registration or inspection by a Council.
- (3) Test or trial for a prospective purchaser.
- (4) Delivery to a purchaser.
- (5) Delivery to another maker, dealer or repairer, or *vice versa*.
- (6) Proceeding to or from a workshop for work thereon.
- (7) Towing or carrying a vehicle broken down on a road or towing a trolley vehicle.
- (8) Proceeding to or from a railway station, aerodrome or wharf for shipment, etc.
- (9) Proceeding to or from a storage place or saleroom.
- (10) Taking a laid-up vehicle from one storage place to another.

Nothing in the above provisions shall authorise the use of a vehicle or its trailer under a Limited Trade Licence if the duplicate entries (see later) are not properly completed and carried on the vehicle or for any of the following purposes:

(a) To carry any person other than the driver (or 2 drivers if a steam vehicle) or an authorised inspector or one person in a broken down vehicle which is being towed or not more than 2 other persons each of whom is either the holder of the licence or his employee necessarily present, or a prospective purchaser or his nominee, who is in either case carried on the vehicle itself and not on any trailer drawn thereby.

(6) To carry any goods or load in the course of trade or for delivery or removal, but a load of ballast (sand, scrap, etc.) may be carried for the purpose of testing the vehicle, but a partly superimposed trailer will not be a "load" nor will

vehicles in course of delivery to a purchaser or for export

ally propelled vehicle unless it is one which is authorised to be carried by the mechanically propelled vehicle by which it is drawn and no other trailer is drawn by that vehicle. The holder of a limited trade licence is liable for any contravention (even if it is contrary to his orders) by his servants of the Regs, or of the conditions under which this licence is taken out (*Griffiths v. Studebakers*) (1924).

The holder of a limited trade licence will be supplied by the Council with a book in which particulars of the use of the licence on each occasion must be entered in duplicate before the licence is so used. One copy of the entry must be carried in the vehicle during the whole of the journey (as stated above) and one copy

must be produced at all reasonable times for inspection by any police or local taxation officer. It is an offence to deface, mutilate, alter, falsify, or obliterate any entry in the book or in the copy carried on the vehicle, or to make any false or misleading entry

Limited trade licence plates are pure white in colour, and all the letters and figures thereon and a half-inch border all round are signal red in colour.

There are two forms of limited trade licences, viz.: (a) That for all vehicles used by the licensee. It costs £6. It is triangular in shape and is carried in a
plate on cars, or
in the centre of the square front plate on cycles. It is
marked "L.T.P."

(6) That for all cycles (under 8 cwt.), tricycles and invalid

It costs £1 5s. *Od.* It is diamond-shaped and is carried in a diamond-shaped holder in the centre of the square front plate. It is marked " L.T.P. for cycles and invalid carriages."

4. Excise Motor Licence. This licence (formerly called the Road Fund Licence) under the Act shall in the prescribed manner be fixed to and exhibited on the vehicle in respect to which it is

The licence has entered upon it:

- (1) The registration mark of the vehicle.
- (2) Horse-power and seating capacity or weight unladen (or the letters " MAX. ").
- (3) Class and make of the vehicle.
- (4) Amount of duty paid (or the word " Nil ").
- (5) Name of licensing authority and date of issue (Reg. 13).

It will also show the date on which it expires.

In the case of all mechanically propelled vehicles (except tramcars) it must be attached to and carried on the vehicle at all times when the vehicle is in use or is being kept on a public road (Reg. 4).

Position of Licence:

(1) Bicycles, other than those mentioned in (2) below, tri cycles and invalid carriages on near side in front of driving seat.

(2) Bicycles used for drawing sidecars or bicycles to which sidecars are attached, when kept on a public road on near side of handle-bar or on near side of combination in front of driving seat.

(3) Pedestrian controlled vehicles on near side of vehicle

(4) All other vehicles (except when on or near windscreen) on near side, facing to near side of road, between two parallel lines as prescribed and not less than 2½ feet or more than 6½ feet from the ground.

It must be clearly visible at all times by daylight to a person standing at the near side of the vehicle.

It must be carried in a metal weather-proof holder (circular or rectangular with cross-bars) with cover of transparent white glass. However, if the front glass wind-screen extends to the near side, the licence may be carried facing forwards at the near lower corner of wind-screen, either in a holder within 2 inches of the

screen, so as to be clearly visible from hi front at all times by daylight (Reg. 4, and 2nd Schedule as amended by 1960 Regs.).

No person shall alter, deface, mutilate or add anything to any

such licence, or exhibit on a vehicle any licence which has been altered, defaced, mutilated, or added to, or upon which the particulars have become illegible or the colour altered by fading or otherwise, or exhibit any colourable imitation of a licence (Reg. 5).

If a licence is lost, destroyed, mutilated, defaced, illegible, or altered, the owner must procure a duplicate from the Council. If a lost licence is found after a duplicate has been issued the owner must take all reasonable steps to regain it and return it to the Council (R. & L. Regs., 1955. Reg. 12).

Where from any cause a licence becomes void otherwise than by effluxion of time, it shall at once be delivered up to the Council where the vehicle was last registered (Reg. 18). A licence for the next period issued in advance may at once be exhibited on the vehicle (Reg. 4). Using or keeping on a public road an unlicensed vehicle is an excise offence (1962 Act, s. 7). For fraudulent use of road fund licence see "Registration of vehicles" above.

5. Identification or Registration Mark. Under the Vehicles (Excise) Act, 1962, the mark indicating the Council with which a mechanically propelled vehicle is first registered (the index mark consisting of one or more letters) and the registered number of the vehicle (one or more figures) must be fixed on the vehicle in the prescribed manner (s. 13). If this mark is not so fixed, or if, being so fixed, it is in any way obscured or rendered or allowed to become

being driven, the person keeping the vehicle is liable to summary fine. However, the person charged with obscuring, etc., such mark is not liable to conviction if he proves he has taken all reasonable steps to prevent it being obscured. Also, a driver is not liable to the penalty if he proves he had no reasonable opportunity of registering the vehicle and was driving it on a public road for the purpose of registering it (s. 15).

A registration mark is assigned to a vehicle and not to its owner, and it attaches to that vehicle until the same is broken up, destroyed or sent permanently out of Great Britain (R. & L.

by special arrangement with the licensing authority.

It is an offence to forge or fraudulently alter or use or fraudulently identifying a vehicle (1962 Act, s. 17).

Shape and Position. The registration mark consists of the a flat rectangular plate or on a flat unbroken rectangular surface

The registration mark shall be exhibited on the front and back thereon shall be easily distinguishable, except in the case of a

works truck when the mark shall be vertical on both sides or on the back of the vehicle.

An invalid carriage, a pedestrian controlled vehicle and a bicycle may have the front registration mark on a flat plate with duplicate faces (see 3rd Sched.) fixed on the vehicle in a vertical position or may have it on both sides of the vehicle on flat surface of the front mud-guard (Reg. 22).

However, the rules as regards vehicles registered for the first time on or after Oct. 1, 1938 not being works trucks are as follows:

(a) The registration mark shall be exhibited on the front and

(6) The front registration mark on a bicycle, pedestrian

sides of a plate on the vehicle, so as to be easily distinguishable from both sides of the vehicle. The rear mark should be easily distinguishable in normal daylight by an observer more than 10 ft. and not more than 60 ft. distant.

(c) In all other cases the front and rear marks shall be exhibited so as to be easily distinguishable in normal daylight

from directly in front or rear (R. & L. Regs., 1955, Reg. 26).

During the hours of darkness the rear identification mark (except that of a works truck) must be illuminated (Regs., 25, 26).

No other figures or letters and no design or ornamentation shall be placed near the registration mark in such a manner as to

identification mark of the vehicle when in motion (R. & L. Regs., 1955, Regs. 22 and 26).

When one or more vehicles are attached, either in front or

stricted vehicle " (an agricultural machine, 1962 Act, Sched. 3, or a vehicle passing for short distances from land to land owned by same owner, 1962 Act, s. 6), the rearmost vehicle can carry the registration mark of any other restricted vehicle owned by the

The letters allocated are given in the Road Vehicles (Index Marks) Regs., 1951, 1955, 1959, 1960 and 1961.

Form and Description. Except for bicycles, invalid carriages and pedestrian controlled vehicles, the registration mark should be

arrangements of registration marks are shown in diagrams, viz.

followed or preceded by registration figures and a letter to indicate the year of registration.

The registration mark may be so constructed that it can be

illuminated by transparency or translucency (viz. light can shine through). If so, it shall be formed of white letters and figures upon a black surface, and when illuminated they must appear white against a black background.

If the registration mark is not so constructed, it shall be formed of white, silver or light grey letters and figures on a black surface and indelibly inscribed on or so attached as not to be readily detachable. A flat plate of cast or pressed metal having raised letters and figures may be used.

A registration mark must conform with one of two alternative groups of provisions.

Under the first group each letter and figure shall be 3J in. high, t in. broad and take up (except the figure 1) 2J in. width. There shall be a / in. space between each adjoining letter or figure, and an upper and lower margin of i in. and side margin of l in.

In the case of invalid carriages, pedestrian controlled vehicles and bicycles, as regards the front registration mark, each letter and figure shall be lj in. high, A in. broad and take up (except

adjoining letter or figure, and an upper and lower margin of { in. and side margin of J in. As regards the rear registration mark each letter and figure shall be 2J in. high, j in. broad and take up (except the figure 1) 1} in. width. There shall be J in. space between each adjoining letter or figure and an upper, lower and side margin of J in.

Under the second group of provisions each letter and figure shall be 3^ in. high, A in. broad and take up (except the figure 1) 2J in. width. Where the registration mark is embossed or pressed, part of every letter and figure shall be flat, the flat part being not less than J in. wide, parallel to the surface of the plate and projecting not more than A in. from the surface.

There shall be a space of & in. between each adjoining letter or figure and an upper, lower and side margin of A in. However, there are slight variations for embossed or pressed registration marks.

In the case of invalid carriages, pedestrian controlled vehicles and bicycles, as regards the front registration mark each letter and figure shall be 1} in. high, ft in. broad, and take up (except the figure 1) 1J in. width. There shall be a space of A in. between each adjoining letter or figure, and an upper, lower and side margin of at least J in. As regards the rear registration mark, each letter shall be 2/ in. high, { in. broad and take up (except the figure 1) 11 in. width. There shall be a space of | in. between each adjoining letter or figure, and an upper, lower and side margin of | in. (Reg. 21 and 3rd Sched. 1955 Regs.)

The registration mark supplied with a general trade licence is on a red plate, the letters and figures being white. That attached to a limited trade licence is on a white plate, the letters and figures being red. Such " trade " vehicles need not carry the

ordinary registration marks (Reg. 29). See " Trade Licences

passengers for hire), must, in addition to the registration mark, carry a distinctive sign indicating that it is a hackney carriage and the number of persons it seats. (1962 Act, s. 14)

This applies when the rate of duty paid is less than the rate of duty payable had the vehicle been licensed as a private vehicle.

It does not apply to a tramcar, or to a vehicle licensed by a Local Authority to ply for hire, which carries an outside mark, as prescribed by the Local Authority, indicating that it is a hackney vehicle licensed for public hire. See " Hackney Car-

If the hackney vehicle is temporarily adapted for and used solely sign need not be displayed while the vehicle is being so used (Reg. 31).

This distinctive hackney carriage sign consists of a semi-circular black mark, having a white, silver or light grey border and

letters. It must bear a number indicating the seating capacity of the vehicle. This mark may be on a plate or on the flat surface of the vehicle. It must be placed on the back of the vehicle: it must

6. Foreign-Owned Motor Vehicles. The Motor Vehicles (International Circulation) Order 1957, made under M.V. (I.C.) provisions affecting motor vehicles and drivers from abroad.

Convention Driving Permit or a Domestic Driving Permit may for one year drive in Great Britain motor vehicles of the class they are authorized by their permits to drive without holding driving licences issued under the R.T. Act 1960. Such persons may for

temporarily into Great Britain which they are authorized by their permits to drive without holding public service or heavy goods

vehicles temporarily brought into Great Britain, even though they may be under 21 (Art. 2).

Under the Motor Vehicles (International Circulation) Regula-

London County Council) may grant an international circulation permit for certain motor vehicles brought temporarily into Great Britain by persons resident outside the United Kingdom who comply with certain requirements (Reg. 1). This permit may last 90 days (Reg. 2). It must be carried in a holder on the vehicle in the same manner as an excise licence (Reg. 3).

On the expiry of the permit or if such vehicle is destroyed,

shall be surrendered to a Registration Authority (Reg. 4).

A registration authority may allow the vehicle to retain the identification mark of its own country, otherwise the identification mark need not be exhibited at the front of the vehicle if that is not required by the law under which, or the authority by whom, the registration mark was issued. A nationality sign shall be exhibited on the back of the vehicle, except vehicles registered by the British Authorities in Germany or the United States authorities in Germany or France (Reg. 5).

Where a registration authority assigns to the owner an identification mark of the Q series under Reg. 5, he will also be given a registration card. This card must be surrendered with the international circulation permit if the latter is surrendered under Reg.

reasonable time on request by a police or local taxation officer.

a duplicate (Reg. 6).

Excise licences may be granted for vehicles brought temporarily

business or usual place of abode in Great Britain (Reg. 7).

Contraventions of these Regulations are punishable summarily.

The use of a foreign-owned motor vehicle in this country must be duly insured in respect of third party risks in this country. The owner should have an "International Motor Insurance Card" which is to be regarded as an insurance policy covering third party risks (M.V. (International Motor Insurance Card) Regs., 1957). See "Insurance Certificates", Chap. 24.

As regards motor vehicles brought from Northern Ireland, Isle of Man, Jersey or Guernsey, they should have certificates of insurance or security complying with their own law and covering the driving of the vehicles in Great Britain. (Motor Vehicles (Third Party Risks) Regs., 1961 and Rules, 1952 and Reg. 12 of the International Motor Insurance Card Regs., 1957, contains a special provision for motor vehicles from Northern Ireland.)

A central register of foreign-owned vehicles and their specially

must be reported by the Clubs and Association concerned. All convictions of such drivers must be reported to the London County Council.

The distinctive mark carried to indicate the nationality of a vehicle consists of letters in black on a white oval plate carried on the back of the vehicle. For example, A indicates Austria, GB Great Britain, and C.H. Switzerland (Confederation Helvetique).

These vehicles are exempt from the Lighting Regulations if

they have two front white lights and a red rear light and comply with the Geneva Convention, 1949. See " Lights on Vehicles" Chap. 24.

They are also exempt from many of the Construction Regulations See Appendix II.

The Public Service Vehicles (International Circulation) Regs. 1948, deal with single-decked public service vehicles brought into Great Britain (with passengers therefor) for not more than 90 days.

7. Construction and Use of Motor Vehicles and Trailers.

For the purpose of regulations dealing with their construction and use motor vehicles and their trailers have been divided into

as amended, deal mainly with wheeled vehicles.

" Wheeled " means that the whole weight of the vehicle is transmitted to the road surface by means of wheels.

" Tracklaying " means that the vehicle is so designed and constructed that its weight is transmitted to the road surface either

continuous tracks in such circumstances that the weight transmitted to the road surface by the tracks is not less than half the weight of the vehicle (Reg. 3 and T. 3).

Reg. 5 directs that every motor cycle and invalid carriage shall vehicle and trailer shall be so constructed that it is either a wheeled vehicle or a track laying vehicle.

The Motor Vehicles (Construction and Use) (Tracklaying Vehicles) Regulations, 1955, as amended, apply to tracklaying vehicles only (T. Reg. 4).

Both Regulations contain the provision that every motor vehicle first registered before the expiration of one year from the making of any of these regulations by which the requirements as regards the construction or weight of any class or description of vehicles are varied, shall be exempt from the requirements of that regulation for a period of 5 years from the making thereof, provided it complies with any prior regulations affecting it (Reg. 4 and T. Reg. 4).

If any person uses or causes or permits the use on a road of a motor vehicle or trailer in contravention of

(1) The rules as to construction, weight and equipment of wheeled or tracklaying motor vehicles or trailers, as prescribed by the Motor Vehicles (Construction and Use) Regulations, in

and in Part II (Regs. 5 to 39) and Part IV (Reg. 79) of the Regulations (Tracklaying), 1955, he commits an offence under s. 64, Road Traffic Act, 1960.

(2) The rules governing the use of motor vehicles and trailers, as prescribed by Part III (Regs. 59 to 105) of the Regulations he commits an offence punishable by fine not exceeding £20 (Reg. 104).

(3) The rules governing the use of tracklaying motor vehicles and trailers, as prescribed by Part III (Regs. 40 to 78) of the Regulations (Tracklaying), 1955, he commits an offence

Detail* of the subjects of the above-mentioned regulations have been arranged alphabetically and are given in Appendix II.

Chapter XXVI

COMMUNICATIONS

	Page	
Post Office . . .	331	Merchant Shipping Acts . . . 335
Telegraphs . . .	332	Air navigation . . . 335
Wireless . . .	333	Smuggling . . . 340
Railways . . .	334	

Post Office. The Post Office Act, 1953, deals with many offences in connection with the postal service, and these offences are usually prosecuted under the direction of the Postmaster-General.

The postal service is a State monopoly, and it is unlawful for any unauthorised person to carry on a letter service (ss. 3, 4).

Interference with the Postal Service. It is a felony for any person to steal any mailbag, or to stop a mail with intent to rob or search, or to steal any postal packet (or anything out of it) in course of transmission by post (s. 52). See also "Statutory Larcenies "

It is a felony to unlawfully take away or open a mail bag or unlawfully take a postal packet in course of transmission by post out of a mail bag, in transmission in any vehicle, ship or aircraft

whose taking is felony under the Act is also felony (s. 54).

It is a misdemeanour for any person to fraudulently or wilfully detain or refuse to deliver up any postal packet or mailbag which is in course of transmission by post and ought to have been delivered to any other person, or which has been found by him or any other person (s. 55).

The wilful and malicious (with intent to injure any other person) opening or interfering with the due delivery of any postal packet which ought to have been delivered to that other person, is a misdemeanour when committed by a person not in the employment of the Post Office and who is not the parent or guardian of the person to whom the letter is addressed (s. 56).

Placing in or against any post office letter-box or telephone kiosk any dangerous, noxious or deleterious substance, or committing any injury or nuisance to same may be punished summarily or on indictment (s. 60).

Without authority affixing any notice or other thing, or painting or disfiguring any Post Office property, is a summary offence (s. 61).

Any wilful obstruction or molestation of a postal official in the execution of his duty, or of the course of business in a post office.

is a summary offence and the offender can be removed by any constable on demand (s. 65).

Any imitations without due authority of post office stamps, envelopes, forms and marks, also fictitious stamps are prohibited, and are summary offences (ss. 62, 63).

Without authority displaying marks on any house, box or place implying that same is an official post office, letter-box, telephone box, etc., is a summary offence (s. 64).

The forgery or larceny of money orders (or postal orders) is a felony (s. 23). See " Forgery ", Chap. 17.

Prohibited Postal Packets. Sending any postal packet containing any dangerous, noxious or deleterious substance or anything likely to injure other postal packets or any officer of the Post Office, or any indecent or obscene picture book, writing or article, or having on the outside any marks of an indecent, obscene or grossly offensive character, is a misdemeanour punishable summarily or on indictment (s. 11).

Offences by Postal Officials. Embezzling, secreting or destroying any postal packet in course of transmission by post is a felony (s. 57).

Opening contrary to his duty any postal packet in course of transmission by post or wilfully delaying or detaining same is a misdemeanour, but the Secretary of State by warrant may direct the opening, delaying or detention of postal packets (s. 58).

Any carelessness, negligence or misconduct when in charge of a mailbag or postal packet in course of transmission by post is punishable summarily (s. 59).

Proceedings may be taken against the Crown in respect of loss or damage to a registered inland postal packet due to wrongful act, neglect or default by an agent of the Crown in dealing with the packet (Crown Proceedings Act, 1947, s. 9).

Definition. " Postal packet " means a letter, post card, newspaper and every packet or article transmissible by post and includes a telegram (s. 87).

" In transmission by post " covers the period from the time of its being delivered to the post office to the time of its being delivered to the person to whom it is addressed (s. 87).

For " Accommodation Addresses " see " Official Secrets Acts ", Chap. 20. Also see " Evidence by Certificate ", Chap. 7.

It is a summary offence to use the words " Royal Mail " or " Royal Air Mail " on any premises, vehicle, etc., without authority (s. 64).

It is a summary offence to telephone any message which is grossly offensive or indecent, or menacing, or false or persistently unreasonable for the purpose of causing annoyance, etc. (s. 66).

Telegraphs. Several Telegraph Acts have dealt with the telegraph service since 1863. The Postmaster-General is now

responsible for the public telegraph and telephone services, and a telegram is a "postal packet" under the Post Office Act.

Telegrams must be promptly and accurately transmitted, their contents must not be improperly disclosed, and there must be no misuse of the service.

These statutes make it an offence for:

(1) Any person in the employment of a telegraph company to wilfully or negligently omit or delay to transmit or deliver any message (1863 Act, s. 45), or to improperly divulge to any person the purport of any telegram (1863 Act, s. 45, and Post Office Protection Act, 1884, s. 11).

(2) Any person connected with the Post Office to disclose, contrary to his duty, the contents of any message entrusted to the Postmaster-General for transmission (1868 Act, s. 20). This offence may be dealt with summarily by consent (M.C.

Act 1952, s. 19 and 1st Sched.).

(3) Any person to forge or wilfully and without due authority alter a telegram, or to utter a telegram knowing same to be forged, or to transmit by telegraph as a telegram or utter as a telegram any message which he knows to be not a telegram, is a misdemeanour (punishable summarily or on indictment), whether he had or had not an intent to defraud (Post Office Protection Act, 1884, s. 11).

In such cases it is necessary to prove that the false telegram was sent with intent to deceive the person to whom it was sent. See also "Forgery", Chap. 17.

Any unlawful and malicious injury to or interference with any part of the telegraph system or any attempt to carry out any such injury or interference may be dealt with *aa* a summary offence (Malicious Damage Act, 1861. ss. 37 and 38). See Chap. 15.

Wireless. Wireless telegraphy means any system of communication by telegraph without the aid of any wire connecting the points from and at which the messages or other communications are sent and received.

Under the Wireless Telegraphy Act, 1949, it is an offence for any person to establish any wireless telegraphy station or install or use any apparatus for wireless telegraphy without a licence granted by the Postmaster-General (s. 1). A wireless receiving licence costs £1 and lasts one year. A wireless and television receiving licence costs £4 and lasts one year. Any person using an apparatus for interfering with any wireless telegraphy (s. 13)

^{out} authority to other messages (s. 5) will commit an offence. The offence may be dealt with summarily, and in addition to punishment the apparatus may be forfeited (s. 14).

Proceedings shall not be taken except with the consent of the Postmaster-General.

A Justice on sworn information may issue a search warrant authorising entry and inspection of any premises, vehicle, vessel or aircraft specified and test of apparatus (s. 15). A blind person on certificate from the local county or county borough council

Railways. Several Railway Regulation Acts provide for the protection of railway property against malicious injury and for the proper carrying out of railway traffic.

Any wilful obstruction of a railway servant in the execution

railway special constables (1840 and 1842 Acts). Any malicious act with intent to obstruct, upset or damage any engine, carriage or truck using a railway is a felony, and any unlawful act or wilful neglect which obstructs such engine, etc., is a misdemeanour (Malicious Damage Act, 1861, ss. 35 and 36).

Any malicious act with intent to endanger the safety of any person travelling on a railway is a felony, and any unlawful act

travelling is a misdemeanour (Offences against the Person Act, 1861, ss. 32, 33 and 34).

Offences under the Railways Acts are as a rule dealt with by

Intoxicating liquor may be sold for consumption on railway

that an excise licence under s. 154, Customs and Excise Act, 1952, has been taken out (Licensing Act, 1953, s. 164).

The railways were nationalised by the Transport Act, 1947, and

prepare a scheme for their reorganization.

As well as the general law dealt with above there is also the following special railway Act The British Transport Commission Act, 1949.

In addition to other matters this Act allows stone throwing,

(1) Unlawfully throwing or causing to fall or strike at, against, into or upon any engine, tender, motor, carriage or truck, or any works or apparatus on any railway, any wood, stone or other matter or thing likely to cause damage or injury to persons or property (s. 56).

(2) Trespassing upon any of the railway lines or upon any railway embankment or cutting or upon any other lands of the Commission in dangerous proximity to any such lines of railway or other works or to any electrical apparatus used for or in connection with the railway. But no person shall be

subject to a penalty unless notices warning persons not to trespass have been placed and renewed as necessary (s. 55).

Merchant Shipping Acts. The Merchant Shipping Act, 1894, amended by later Acts, deals with the ships and men of our merchant service.

These Acts regulate the conditions of service of the mercantile marine, dealing also with desertion and disciplinary offences.

If a sailor deserts or is absent without leave the captain, mate, owner, etc., may take him and convey him on board. If required the police are to assist, but if the sailor so requires he must first be brought before a court or magistrate (1894 Act, s. 222).

If a sailor of a fishing-boat deserts or is absent without leave the captain or owner may take him (the police, if required, assisting) before some officer who has power to issue a warrant for his arrest. An officer of the Ministry of Transport, on the information of the captain, owner or agent of a fishing-boat, may issue a warrant to arrest a sailor charged with desertion or other ship offence. This warrant lasts ninety-six hours and must be executed by the police, who will bring the sailor before the officer, who, if necessary, will send him before a Magistrates' Court

No mechanically propelled vessel in the United Kingdom which carries more than 12 passengers, may ply or proceed to sea or on any voyage or excursion with any passengers on board unless it holds a valid passenger certificate issued by the Ministry of Transport after survey by a Ministry Marine Surveyor, nor may a vessel holding a passenger certificate carry passengers in excess of the number specified on the certificate (ss. 271 and 283).

The expression " passenger " means any person carried in a crew, (b) children under one year of age, and (c) certain other

Persons in passenger steamers who are guilty of misconduct in connection with the payment of their fares or their behaviour on board may be detained by the captain and his assistants and conveyed before a Justice to be dealt with summarily (1894 Act, s. 287). See " Drunkenness ", Chap. 38.

Passenger vessels may have an excise retailer's licence for sale of intoxicants (Customs and Excise Act, 1952, s. 153).

Air Navigation. The Civil Aviation Act, 1949 and the Civil Aviation (Licensing) Act, 1960 deal with this subject. If an aircraft is so flown as to be the cause of unnecessary danger to any person or property, the pilot and the owner or hirer may be convicted summarily (s. 11). Any offence under the Act

aircraft shall be deemed to have been committed in any place

where the offender may for the time being be (ss. 60, 62). A court committed in a British aircraft in flight over the high seas. (*R. v. Naylor* (1961)).

Special constables may be appointed by 2 Justices for duty as constables on premises controlled by the Minister of Aviation (s. 37).

Trespassing on the land of a licensed aerodrome, if warning

unless there is in force a policy of insurance or a security against third party risks in relation to such flying. This will not apply if the owner is a local authority or a police authority or if the aircraft is being used for police purposes or if the presented amount has been deposited with the High Court (s. 43). The hirer of an aircraft for more than 14 days will be regarded as the owner (s. 49). This insurance is on the same lines as motor insurance and there must be certificates of insurance or security (s. 44).

S. 8 of the Act confers power to make Orders in Council regulating air navigation and for carrying out the Chicago Convention of

Public Health (Aircraft) Regs., 1952, 1954, 1961 prescribe measures to prevent the spread of infectious diseases by aircraft.

S. 7 of the Civil Aviation (Licensing) Act, 1960 prohibits aerial advertising and propaganda by aircraft while in the air over any part of the U.K. or its territorial waters. Any person who uses

However, under the Civil Aviation (Aerial Advertising) Regs. 1961, aircraft may be so used for civil defence, military or police

The Air Navigation Orders, 1960, 1961 regulate the use of aircraft.

experimental purposes, etc. (Art. 1). The Minister registers aircraft in the United Kingdom, and he may cancel registration and it may become void (Art. 2).

No aircraft shall fly unless it bears the nationality and registration marks required by the law of the country in which it registered. Aircraft registered in the United Kingdom shall bear the capital letter "G" and the four capital Roman letters assigned to it by the Minister. (Art. 3.)

No aircraft shall fly unless there is in force in respect thereof a certificate of airworthiness, except

- (a) a glider not used for public transport of passengers or aerial work,
- (b) a balloon not used for public transport of passengers,
- (c) a kite,
- (d) an aircraft flying in accordance with the conditions stated

(«) an aircraft flying by special permission of the Minister.

(Art. 4.)

An aircraft shall not fly for the purpose of public transport or dropping or projecting any material for agricultural, public health or similar purposes unless (a) the aircraft and its engines, equipment and radio station are properly maintained, (b) there is in force a " Certificate of Maintenance ". (Art. 6.)

No person under 17 shall have sole control of an aircraft in motion (Art. 16 and 9th Schedule) except in the case of a glider

(Art. 20).

No person shall commit any act likely to imperil the safety of an aircraft or of any person on board an aircraft (Art. 37).

A person shall not enter or be in any aircraft while drunk. A member of the crew of an aircraft must not be under the influence of drink or a drug to such an extent as to impair his capacity to act (Art. 39).

An aircraft shall not fly unless it carries the documents it is required to carry. However, the documents may be kept at an aerodrome from which the aircraft takes off if it is intended to return to the same aerodrome without leaving the United Kingdom (Art. 51).

The documents to be carried by aircraft registered in the United Kingdom are as follows:

- (1) On a flight, being international air navigation, for a purpose other than public transport or aerial work:

Documents A, B and C.

- (2) On a flight for the purpose of aerial work:

Documents A, B, C, E and F.

- (3) On a flight for the purpose of public transport:

Documents A, B, C, D, E and F. (Document G must be

carried in flights within (1) above, and in (2) and (3) where the flights are international.)

" A " means wireless licence and telecommunication log book.

B " means certificate of airworthiness.

C " means licences of flight crew.

D " means load sheet.

E " means certificate of maintenance.

F " means technical log.

G " means certificate of registration.

(Eleventh Schedule)

The Commander of an aircraft shall within a reasonable time after being requested to do so by an authorised person (this includes a constable) cause to be produced (a) the certificates of registration and airworthiness, (b) the licences of its flight crew and (c) such other documents which must be carried under s. 51 and the Eleventh Schedule. The holder of any licence under the Order shall on demand by an authorised person, produce the licence however in some cases he may have 5 days within which to produce it at a specified police station (s. 52).

No person shall with intent to deceive, forge, alter, etc., any document necessary under this Order, or use any such forged, etc., document or use one to which he is not entitled or lend any such document to another person or make false representation to procure any such document or alter, etc., any entry in any logbook or make wilfully or negligently any materially incorrect entry in a load sheet (Art. 55).

Within the United Kingdom a captive balloon or a kite shall not be flown at a height of more than 200 feet above ground level nor within 3 miles of an aerodrome (Art. 58) or within 200 feet of any vessel, vehicle or structure. (1962 (Amendment) Order).

The Minister may license an aerodrome on conditions (Art. 61) and aeronautical lights must be approved by him (Art. 65) and he may take action to have extinguished or properly screened any light which is near an aerodrome or may be mistaken for an aerodrome light and which is dangerous to air navigation (Art. 66).

Any person authorised in writing by the Minister and any officer of police has the right of access at all reasonable times by day or night to any aerodrome or place where an aircraft has landed for the purpose of inspecting the aerodrome or aircraft or any document he has power to demand under the Order and for detaining the aircraft under the provisions of the Order (Art. 70). No person shall obstruct or impede any person acting in the exercise of his powers or the performance of his duties under the provisions of the Order (Art. 71).

Low flying. Under the authority of Art. 56, the Minister has made the Rules of the Air and Air Traffic Control Regs., 1960. Rule 5 deals with low flying as follows:

(a) An aircraft other than a helicopter shall not fly over any congested area below (i) such height as would enable the aircraft to alight clear of the area and without danger to persons or property on the surface, in the event of failure of a power unit, or (ii) a height of 1,500 feet above the highest fixed object within 2,000 feet of the aircraft, whichever is the higher.

(b) A helicopter shall not fly below such height as would enable it to alight without danger to persons or property on the surface, in the event of failure of a power unit.

(c) Except with the written permission of the Minister a helicopter shall not fly (i) over a congested area below a height

of 1,500 feet above the highest fixed object within 2,000 feet of the helicopter; (ii) over an area prescribed for the purposes of this paragraph below such height as would enable it to alight clear of the area in the event of failure of a power unit.

(d) An aircraft shall not fly over or within 1,000 yards of, any assembly in the open air of more than 1,000 persons, except with the written permission of the Minister and the written consent of the organisers nor below such height as would enable it to alight clear of the assembly in the event of failure of a power unit. Provided that where a person is charged with a contravention of this paragraph, it shall be a good defence to prove that the flight of the aircraft over, or within 1,000 yards of, the assembly was made at a reasonable height and for a reason not connected with the assembly or with the event which was the occasion for the assembly. A procession is an assembly (*D.P.P. v. Roffey* 123 J.P. 241).

(e) An aircraft shall not fly closer than 500 feet to any person, vessel, vehicle or structure.

(2) (a) Paragraphs (1) (d) and (e) shall not apply to aircraft in the service of a police authority.

(b) Paragraphs (1) (d) and (e) shall not apply to the flight of an aircraft over or within 1,000 yards of an assembly of persons

if the aircraft is taking part in such race, etc., or is engaged in a flight arranged by or made with the written consent of the organisers.

(i) Paragraph (1) (e) shall not apply to (i) any aircraft while it is landing or taking off in accordance with normal aviation practice, (ii) any glider while it is hill-soaring.

(3) Nothing in this Rule shall prohibit any aircraft from (a) taking off, landing or practising approaches to landing, or (b) flying for the purpose of checking navigational aids or procedures at a Government or licensed aerodrome, or (c) flying for the purpose of saving life. Providing that in the case of practising approaches to landing, it is confined to the airspace customarily used by aircraft.

Aerobatic flights over towns or populous areas are prohibited (Rule 18).

Air Accidents. The Civil Aviation (Investigation of Accidents) Regs., 1951, direct that when an accident occurs to a civil aircraft involving death or serious injury to any person, or serious damage to an aircraft, particulars should be notified to the local police and to the Minister of Aviation by the pilot or owner or operator (Arts. 3 and 4). "Aircraft" includes all balloons (captive or free), gliders, airships and flying machines (Art. 1).

Such an aircraft should not be removed or interfered with for three days unless by authority, except when necessary to save life or to prevent danger or obstruction, etc. (Art. 5.)

An Inspector of Accidents will investigate the accident (Arts. a public inquiry (Arts. 9 and 10).

Special provisions are made in respect of combined Military Combined Military and Civil Air Accidents) Regs., 1959 and 1960.

Customs and Excise Act, 1952 requires aircraft flying to or from abroad to depart from or land at a Customs Airport (for customs clearance). If such an aircraft lands at a place other than

the officer's consent and no crew or passenger shall depart without the consent of an officer or constable save when necessary for safety (s. 15). Any customs officer or constable may prevent

not a customs airport or from a customs airport before clearance is given (s. 25). S. 152 of this Act allows passenger aircraft to have an excise retailer's licence for the sale of intoxicants without

Smuggling. Acts of Parliament deal with the importation of goods into the country in three ways:

(1) The bringing in of some articles is absolutely forbidden;

(2) customs duties are paid thereon; for example, wine, spirits, tobacco, saccharine, various manufactured articles. The duties thus imposed form part of the national revenue, and may protect home industries against foreign competition.

(3) Some articles may not be brought into this country except under official licence or permission; for example, certain dangerous drugs. See " Dangerous Drugs ", Chap. 39.

The importation of any article contrary to the law on the subject is termed " smuggling ", and articles so imported illegally are called " contraband goods ".

The Customs and Excise Service keep watch at seaports to prevent and detect breaches of the law.

The Customs and Excise Act, 1952 deals with the prevention of smuggling in ss. 68 to 74. Customs officers, coastguard and police may search vehicles and vessels (s. 297). An excise or warrants for premises (s. 296).

grounds that signalling to smugglers is going on, may enter ships, aircraft, vehicles, houses and places and prevent same which is an offence (s. 71). A person offering goods for sale as smuggled goods is liable to heavy penalty and may be detained (s. 74) by a

(s. 281).

It shall be the duty of every constable and every member of H.M. armed forces or coastguard to assist in the enforcement of the law as set out in the Act (Customs and Excise Act, 1952, s.5).

Any contravention or attempted evasion of the laws on the importation of goods is an offence, and the offender may be

PART VI. OTHER STATUTORY OFFENCES AND REGULATIONS

Chapter XXVII

VAGRANCY AND CHARITY

	Page		Page
Vagrancy Acts . . .	342	Charities	345
Idle and disorderly persons	342	Street collections	345
Rogues and vagabonds	342	War Charities Act, 1940	346
Incorrigible rogue	343		
Begging	344		347
Vagrancy frauds . . .	344	^{tn} /HS	350
Fraudulent Mediums	345	Common lodging-houses	

Vagrancy Acts. The Vagrancy Act, 1824, was intended to prevent wasters and sturdy beggars from wandering about the country and committing sundry questionable acts by which an easy livelihood might be gained.

Offenders under the Act are arranged in three classes:

Idle and Disorderly Persons (s. 3). This term is applied to person committing any of the following offences:

(1) Begging in any public place (s. 3). See " Begging ", later.

(2) Common prostitutes wandering in public places and behaving in an indecent or riotous manner (s. 3).

See

" Prostitution ", Chap. 10.

(3) Pedlars wandering abroad and trading without licence (s. 3). See " Pedlars," Chap. 31.

Above offenders may be committed by one Justice for fourteen days, or by two Justices in Petty Sessions for one month, or may be fined £5.

(2) Rogues and Vagabonds (s. 4). This term is applied to persons committing any of the following offences:

(1) Persons convicted a second time of being an idle and

(2) Persons arrested as " idle and disorderly" who violently resist arrest.

(3) Fortune-tellers and suchlike. See " Vagrancy Frauds ", later.

(4)

" Vagrancy Frauds ".

(5) **Collecting alms or charitable contributions under false pretences. See " Vagrancy Frauds ".**

CHAPTER XXVII. VAGRANCY AND CHARITY

343

(6) Sleeping out. See " Vagrancy Frauds ".

(7) Exposing to public view obscene or indecent exhibitions.
See " Indecent Publications ", Chap. 11.

(8) Exposing the person with intent to insult any female.
See " Indecent Exposure ", Chap. 11.

(9) Having implements with intent to feloniously break into any building.

(10) Being armed with any offensive weapon with intent to commit any felony.

(11) Found in or upon any premises or enclosed yard, garden or area for any unlawful purpose.

(12) Suspected persons or reputed thieves found frequenting or loitering with intent to commit a felony.

For full description of above four offences (9 to 12), see

" Loiterers and Suspected Persons ", Chap. 28.

Above offenders may be committed by one Justice for fourteen days, or by two Justices in Petty Sessions for three months, or may be fined £25.

(3) Incurrible Rogue (s. 5). This term is applied to any

(1) For committing any offence for which he may be dealt with as a rogue and a vagabond (see the fourteen offences above), having been previously convicted as a rogue and a vagabond.

(2) For violently resisting arrest as a rogue and vagabond.

(3) For escaping from a place of confinement before the

the Vagrancy Act.

Persons convicted by the Justices as incurrible rogues shall be committed to prison until the next Quarter Sessions, at which the circumstances are to be examined and they may be sentenced to up to twelve months' imprisonment. S. 14 C.J.A. Act, 1962 enables magistrates' courts to commit cases to quarter sessions in progress, provided the consent of both the accused and the prosecutor and of the higher court have been obtained. There is no appeal against such a conviction by Justices, but the prisoner,

the sentence of Quarter Sessions (Criminal Appeal Act, 1907, s. 20 (2)).

Power of Arrest. Any person may arrest without warrant anyone found committing an offence against the Act and bring him before a Justice or hand him over to the police (but in the case of fortune tellers only the police can so arrest. See " Vagrancy Frauds ", later).

Any constable refusing to take such a prisoner into his custody or any person hindering a constable in the execution of the Act, is liable to fine (s. 6). See Stone, under title " Vagrants ".

344 PART VI. OTHER OFFENCES AND REGULATIONS

Note: Where any statute directs that an offender shall be punished as an idle and disorderly person or as a rogue and vagabond or as an incorrigible rogue, such person shall be punished under the Vagrancy Act (s. 21).

Begging. As every person really in need of subsistence is entitled to national assistance, the law makes it a summary offence to beg or to try and obtain contributions from the public in any fraudulent manner.

Vagrancy Act, 1824, s. 3: Every person wandering abroad or placing himself or herself in any public place, street, highway, court, or passage, to beg or gather alms, or causing or procuring or encouraging any child or children so to do, may be punished summarily as an idle and disorderly person.

Children and Young Persons Act, 1933, ss. 4 and 61: Causing or procuring or allowing any child or young person (under 16) to be in any street, premises or place for the purpose of begging or receiving or inducing alms is a summary offence, and the child or young person may be dealt with as needing care or protection. See Chap. 12.

Pedlars Act, 1871, s. 16: If a pedlar is convicted of begging, the Court must deprive him of his pedlar's certificate. See Chap. 31.

Vagrancy Frauds. Persons convicted of the following offences under s. 4 of the Vagrancy Act, 1824, may be punished summarily as rogues and vagabonds.

(1) *Fortune Telling.* Every person pretending or professing to tell fortunes, or using any subtle craft, means or device by palmistry or otherwise, to deceive or impose on any of Her Majesty's subjects.

(2) *Fraudulent Collections.* Every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence.

(3) *Exposing Wounds.* Every person wandering abroad and endeavouring by the exposure of wounds or deformities to obtain or gather alms.

(4) *Sleeping Out.* Every person wandering abroad and lodging in any barn or outhouse or in any deserted or unoccupied dwelling or in the open air or under a tent or in any cart or waggon (with or in which he does not travel (1935 Act)) and not giving a good account of himself or herself (1824 Act, s. 4), provided that he declines any reasonably accessible free place of shelter or that he is a person who persistently wanders abroad and sleeps out or that by so sleeping out he causes or appears likely to cause damage, infection with vermin or other offensive consequences to property (Vagrancy Act, 1935).

Children and young persons found "sleeping out" may be

dealt with as needing care or protection (Children and Young Persons Act, 1933. s. 61). See Chap. 12.

The police have power to arrest without warrant any persons found committing any of the above offences (s. 6), but in the case of "fortune telling" a constable must not arrest unless he has reason to believe that the offender will abscond or he is not satisfied as to the identity or place of residence of the offender (C.J. Act. 1948. s. 68).

Fraudulent Mediums. The Fraudulent Mediums Act, 1951, repealed the Witchcraft Act, 1735 and s. 4 of the Vagrancy Act, 1824, so far as it extends to spiritualistic mediums or persons using telepathy; clairvoyance or other similar powers or to persons using fraudulent devices in exercising such powers (s. 2).

However, s. 1 of the Act creates the offence of acting as a spiritualistic medium or using telepathy, clairvoyance or other similar powers with intent to deceive or when so acting using any fraudulent device when it is proved that the person so acted for reward. Proceedings require the consent of the Director of Public Prosecutions and they may be summary (with right to claim trial by jury) or on indictment.

However this section does not apply to anything done solely for the purpose of entertainment.

Charities. The law places no obstacles in the way of exercising charity, but it has taken some steps to check persons from obtaining undeserved assistance and to regulate the raising of money from the public for charitable purposes. Under the Charities Act, 1960 charities must be registered with the Charity Commissioners who have powers to check abuses. There are exemptions from registration for "small and transient" charities.

The Vagrancy Act, 1824, makes begging, obtaining alms by the exposure of wounds and deformities, and fraudulent alms collecting, summary offences, for which see above.

Street Collections. The Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, s. 5, authorises a police authority to make regulations dealing with the collection of money or the sale of articles (e.g. flags or other tokens) in streets and public places for the benefit of charitable or other purposes. Any such regulations must be confirmed by the Secretary of State and shall not apply to the sale of articles in public places in the ordinary course of trade where no representation is made that any part of the proceeds will be devoted to charity.

Such regulations, when made, usually provide:

- (1) That a permit must be obtained from the police authority for any such street collection or flag day;
- (2) That every collector must have in possession a written authority to collect;

346 PART VI. OTHER OFFENCES AND REGULATIONS

- (3) That collectors must not cause annoyance or obstruction;
- (4) That all money received must at once be placed in a closed
- (5) That no person must be rewarded for his services out of the proceeds of the collection, and
- (6) That a proper account of the money collected and of

War Charities Act, 1940. This Act makes it a summary offence to make any public appeal for assistance for any war charity, or to attempt to raise money for any such charity by promoting any bazaar, entertainment or similar means, unless the charity is exempted or registered under the Act and the governing body of the charity has in writing approved of such appeal or bazaar, etc. However, this does not apply to a collection at Divine service in a place of public worship, or to any war charity exempted by the Registration Authority from registration under the Act (s. 1).

A "war charity" is defined as any fund, association or undertaking having amongst its principal objects the relief of suffering or distress, caused by, or any other charitable purpose connected with war (*i.e.* any war, War Charities (Definition) Order, 1943).

It does not apply to the Royal Patriotic Fund Corporation nor to any "war charity" administered by a government department (B. II), but it does to any charity for disabled persons (National

Accordingly every "war charity" must make application for registration or exemption to the Registration Authority (the local Council, s. 10), which must keep a Register of War Charities and supply the Charity Commissioners with particulars of same (s. 2). Registered war charities should be properly organised and should keep proper accounts which must be audited and copies sent to the Registration Authority at least once in every twelve

Under s. 4 the Charity Commissioners may make regulations (see the War Charities Regs., 1940) and failure to comply with them or with the conditions laid down in s. 3 will be a summary offence.

In case of default a war charity may be removed from the register and the Charity Commissioners may take control (s. 5).

The police authority may refuse a licence under the House to House Collections Act, 1939, if the collection is for a "war charity" which is not registered or exempted.

The chief officer of police may grant a certificate for a house to house collection to a "war charity" which is exempted from registration under this Act (s. 7).

It is a summary offence to make false statements or representations under this Act or for any person to falsely represent himself to be an officer or agent of a war charity (s. 8).

CHAPTER XXVII. VAGRANCY AND CHARITY

347

An offence under s. 4 can be dealt with summarily with fine up to £5. Proceedings for any other offence against the Act cannot be taken unless by or with the consent of the Charity Commissioners (Ryder Street, St. James's, London, S.W.1) and the penalty is much greater.

House to House Collections Act, 1939. This Act directs that no collection for a charitable purpose shall be made unless authorised under the Act (s. 1(1)). "Collection" means an appeal to the public made by means of visits from house to house (including a place of business) to give, whether for consideration or not, money or other property, and "collector" means a person who makes such an appeal. "Charitable purpose" means any charitable, benevolent or philanthropic purpose whether or not the purpose is charitable within the meaning of any rule of law (s. 11).

If a person promotes such a collection and a collection thereunder is made in any locality, then unless he has a licence in force

punishable by imprisonment not exceeding 6 months, or fine not exceeding £100 or both (s. 8). A "promoter" of a collection means a person who causes others to act, whether for remuneration or otherwise, as collectors for the collection (s. 11).

If a person acts as collector in any locality for such a collection, guilty of an offence (s. 1 (3)) punishable by fine up to £5, and on second or subsequent conviction, by imprisonment not exceeding 3 months or fine not exceeding £25 or both (s. 8).

A police constable may require any person whom he believes to be acting as a collector for a charitable purpose to declare to him immediately his name and address and to sign his name. Failure to comply shall be an offence (s. 6) punishable by fine not

A person may apply in the prescribed manner to the Police Authority of the area for a licence authorising him to promote such a collection in any locality within the police area. A licence may be granted for a definite period not longer than 12 months,

for the simultaneous expiration of such licences (s. 2).

A licence may be refused or revoked on any of the following grounds:

(a) the total amount likely to be applied for charitable purposes is inadequate in proportion to the likely amount of the collection.

(b) remuneration excessive in relation to the amount likely to be applied for charitable purposes is likely to be or has been retained or received out of the proceeds by any person.

(c) the licence would be likely to facilitate begging or causing

348 PART VI. OTHER OFFENCES AND REGULATIONS

a child to beg, or that such an offence has been committed in connection with the collection.

(d) the applicant or licensee has been convicted of assault, rape, carnal knowledge, indecent assault, abduction, larceny, burglary, housebreaking, blackmail, offence in connection with street collections or any offence involving fraud or dishonesty (see Schedule to the Act) and is therefore not a fit and proper person to hold a licence.

(e) The applicant or licensee, in promoting a collection, has failed to exercise due diligence to secure fit and proper collectors or to secure compliance with the Regulations under the Act.

(f) The applicant or licensee has refused or neglected to furnish to the Police Authority such information as they may have reasonably required regarding any of the above matters. If a licence is refused or revoked, the grounds shall be given and there may be an appeal to the Secretary of State (s. 2). The police Authority may refuse a licence if the collection is for a war charity which is not registered or exempted under the Act (s. 7, War Charities Act, 1940), and any contravention of a regulation will be an offence (s. 4) punishable by fine not exceeding £5 (s. 8).

If a person, in connection with any appeal made by him to the public representing that it is for a charitable purpose, displays or uses

(a) a prescribed badge or certificate of authority not being such as is held by him for the appeal pursuant to regulations made under the Act, or

(b) any badge or device or certificate or other document so nearly resembling a prescribed badge or authority as to be calculated to deceive he shall be guilty of an offence (s. 5) liable to imprisonment not exceeding 6 months, or fine not exceeding £100, or both (s. 8).

A similar punishment may be imposed on a person guilty of the offence of knowingly or recklessly making a statement false in a material particular, in furnishing any information for the purposes of this Act (s. 8).

Licence from the Police Authority is not necessary in two cases, viz.:

1. The Secretary of State may, by order, exempt from

licence and authorise a collection in the localities described in the Order, by a person (or organisation) who pursues a charitable purpose throughout the whole of England or a substantial part thereof.

Such an Order has the effect of a licence in the localities named (s. 3).

2. A chief officer of police may grant a certificate to a person to collect for a charitable purpose which is local in character and is likely to be completed within a short period of time. A person holding such a certificate may authorise other persons

CHAPTER XXVII. VAGRANCY AND CHARITY

349

to act as collectors. The holder of such a certificate is exempt from the requirements of the Act (and Regulations) except sections 5 (unauthorised use of badges, etc.) and 6 (liability to give name, etc., to police) and the penalties for contravention of these two sections (3. 1 (4)). Any functions conferred on the chief officer of police by the

Act or Regulations may be delegated by him to any police officer not below the rank of Inspector (s. 7 (2)).

The chief officer of police may grant a certificate for a house to house collection to a war charity which is exempted from registration under the Act (s. 7, War Charities Act, 1940).

Regulations prescribe the form of police certificates, applications for licence or order, collectors' certificates of authority, badges, and accounts to be rendered (7 schedules).

The "chief promoter" of a collection is the person to whom a licence or order is granted, but there may also be promoters taking part in the work.

A "collecting box" means a box or other receptacle for money, securely closed and sealed so that it may not be opened without breaking the seal.

A "receipt book" means a book of detachable receipts consecutively numbered with counterfoils or duplicates correspondingly numbered (Reg. 2).

Every promoter shall exercise all due diligence to secure that collectors are fit and proper persons and that they comply with the Regulations (Reg. 5).

A promoter shall not permit any person to act as a collector unless the person is supplied with

(a) A certificate of authority, as prescribed

(6) a badge, as prescribed, showing the purpose of the collection, and

(c) if money is to be collected, a collecting box or a receipt book.

The purpose of the collection and a distinguishing number shall be marked on every collecting box or wrapper gummed on it (Reg. 2 (3)) and on every receipt (Reg. 6 (1)).

Every promoter shall secure that no certificate of authority, badge, etc., is issued unless the name and address of the collector with distinguishing number of box or receipt book is entered on a list, and shall secure that same are returned when the collection is finished or when the collector ceases to act as such (Reg. 6 (2)).

Every collector shall

(a) Sign his name on his certificate of authority and produce it on demand to any police constable or person at a house visited for collecting.

(6) Sign his name on his badge and wear it prominently when collecting, and

350 PART VI. OTHER OFFENCES AND
REGULATIONS

(c) Keep his certificate and badge in his possession and is completed (Reg. 7).

authorised to act as a collector of money (Reg. 8).

No collector shall importune any person to the annoyance of to leave by any occupant thereof (Reg. 9).

When collecting money by a collecting box, a collector shall collecting box issued to him. When collecting money by any him, in the presence of the contributor, the name of the con-

Every collector shall return to a promoter his collecting box

pleted (Reg. 11).

Every returned collecting box shall be examined, and if it contains money shall be opened in the presence of a promoter and another responsible person, contents counted and recorded

Receipt books shall be similarly examined and amounts listed (Reg. 12).

A licence or order may expressly allow collections in which used; the givers to put their contributions therein and gum down the flaps (Reg. 13).

The chief promoter shall furnish accounts of the collection, as certificates of authority and badges are destroyed when no longer

Any contravention of a regulation will be a summary offence

Common Lodging-Houses. Public Health Act, 1936. Part

A common lodging-house means a house (other than a national assistance institution) provided for the purpose of accommodating by night poor persons, not being members of the same family,

for the purpose of sleeping, or eating, and includes, where part only of a house is so used, the part so used (s. 235).

coming within this definition (*People's Hostels Ltd. v. Turley* (1938)).

No person shall keep a common lodging-house unless he is

registered under this Act (s. 236) with the Local Authority, and the deputies of such a keeper shall also be registered (s. 237). Registration may be refused if keepers or deputies are not fit persons; if premises are not suitable and suitably equipped; or if such use is likely to cause annoyance or inconvenience to the neighbours (s. 238).

" Registered Common Lodging-House " shall be displayed on the outside of the house; the keeper or deputy shall be therein from 9 P.M. to 6 A.M.; lists of lodgers shall be sent to the Local Authority if beggars or vagrants are received; and free access shall be given at all times to authorised officers (s. 241). Infectious disease shall be notified and a Magistrates' Court may order closing if there is notifiable disease (ss. 242-245).

Contravention of the Act will be a summary offence, fine £5 (s. 246), and registration may be cancelled and the keeper disqualified (s. 247).

It is an offence for the keeper of a lodging-house to knowingly lodge or harbour thieves or reputed thieves (Prevention of Crimes Act, 1871, s. 10). See " Receiving Stolen Property ", Chap. 14.

Chapter XXVIII

PREVENTION OF CRIME

Contents

	Page		Page
Penalties Discharge of	352	Loiterers etc. (<i>cant.</i>)	
offenders Probation of	354		
offenders Borstal	355	Found on premises	
Institution . Persistent	358	364 Housebreaking	
offenders Corrective	359	imple	
Training. Preventive	360	. 3 6 4 Found armed with	
Detention Release on	360	intent	
licence and		. 3 6 5 Found wandering	
supervision Special	360	and sleeping out	
offenders Loiterers and	361	. 365	
suspected		Prisons	
persons	363	365	
Frequenting and loiter		Restriction of offensive	
ing	363	weapons	
		. 366	

Penalties. The main preventive of crime is most probably the fear of incurring some penalty. Punishment for crime has been briefly dealt with in Chapter 1, but the Criminal Justice Act, 1948, as amended, has made so many changes in and additions to the methods of punishing offences that it is considered advisable to here set out the relevant provisions.

C.J. Act, 1948 Ss. 3-6, 8-12, 45-47, 1st, 5th and 8th Schedules relate to the probation system, for which see later.

Ss. 7, 8, 12: Where a court convicts a person of an offence and considers punishment or probation is not appropriate, the court may discharge him absolutely or conditionally. See later.

S. 11 (2): A court may order a probationer or an absolutely or conditionally discharged offender to pay damages for injury or compensation for loss. See later.

S. 13: Any court which convicts a person on indictment of has power to fine the offender in lieu of or in addition to dealing with him in any other allowable manner.

S. 17: Assizes or Quarter Sessions shall not impose imprisonment on a person under 15. No court (or justice) shall impose imprisonment on a person under 21 unless no other method of

CHAPTER XXXIII. PREVENTION OF CRIME

353

dealing with him is appropriate, and if it does so, the court shall state the reason. A magistrates' court shall not impose imprisonment on any person under 17 (M.C. Act, 1952, s. 107). A magistrates' court shall not impose imprisonment on a first offender of or over 21 unless the court is of the opinion that no other method

S. 18: Instead of imposing imprisonment a court (or justice) may order an offender, not less than 14 but under 21, to be detained in a detention centre (if a suitable one is available) for various periods up to 6 months as detailed in the section. See "Detention Centre", Chap. 12.

S. 19: Instead of imposing imprisonment or punishing for breach of probation order, a magistrates' court may order an offender who is not less than 10 but is under 21, to attend at an attendance centre. See "Attendance Centre", Chap. 12.

S. 20: An offender not less than 16 but under 21, who is liable to Borstal training. See later.

S. 21: A person not less than 21 who is convicted on indictment and has previous convictions may be sentenced to corrective training. See later. Such a convicted persistent offender who is not less than 30 may be sentenced to preventive detention. See later.

Where a summary court is satisfied on medical evidence that psychopathic disorder, or subnormality, it may make an order authorising the detention of the offender at a hospital or place him under guardianship. (Mental Health Act, 1959, s. 60.) See

Where a summary court convicts a person not less than 17 under the provisions of the Act of an indictable offence and considers he deserves greater punishment than the court can inflict, he can be committed in custody to Quarter Sessions for sentence (M.C. Act, 1952, s. 29 and C.J.A. Act, 1962, s. 14).

on account of ill health (Prison Act, 1952, ss. 25 to 28).

C.J. Act, 1948, s. 69: Where H.M. pardons a person sentenced to death, on condition that he serves a term of imprisonment such person shall be deemed to have been sentenced to such imprisonment.

S. 80 (1): "Impose imprisonment" means pass a sentence of imprisonment or commit to prison in default of payment of money or for failing to do or abstain from doing anything required to be done or left undone. See also s. 126. M.C. Act, 1952.

"Offence for which the sentence is fixed by law" means an offence for which the court is required to sentence the offender to death or imprisonment for life or to detention during H.M.

354 PART VI. OTHER OFFENCES AND REGULATIONS

(6): Where the Act empowers a court, on convicting, to pass a sentence or make an order in lieu of dealing with the offender in any other manner, it does not take away any power of the court to order the offender to pay costs, damages or compensation.

limit on the amount of any fine, includes any pecuniary penalty a conviction (M.C. Act, 1952, s. 126 and C.J. Act, 1961, 4th Sched.)
See also " Punishment for Crime ", Chap. 1.

authorised two new methods of dealing with convicted offenders.

S. 7: Where a court convicts a person of an offence (for which to the circumstances including the nature of the offence and the -
ment and that probation is not appropriate, the court, by order, may discharge him absolutely, or may discharge him conditionally on condition that he commits no offence during a specified period not exceeding 12 months. In the latter case the court shall

the period he will be liable to be sentenced for the original offence. (S. 9, C.J. Act, 1961 permits courts to deal with an offender of discharge imposed by a juvenile court when he was under 17).

S. 8: If a person conditionally discharged is convicted and dealt the specified period, a judge or justice, as authorised by this court which conditionally discharged him. If that court was a summary court it can deal with him for the original offence. If

the offender shall be committed in custody or on bail, by the summary court of the place where arrested, to the Assizes or Quarter Sessions concerned, to be dealt with for the original offence. Where a person conditionally discharged by a magis-

specified period by another magistrates' court, that court, if the first court consents, may also deal with him for the original offence.

S. 11: A court which conditionally discharges a convicted offender may allow a person to give surety for his good behaviour If a court discharges an offender absolutely or conditionally it may order him (or in the case of a child or young person, his parent or guardian (C.J. Act, 1961, s. 8)) to pay damages for

order more
than £100 unless more *is* allowable by any other enactment. This award can be made in addition to an order to pay costs.

CHAPTER XXVIII. PREVENTION OF CRIME

355

S. 12: An absolute or Conditional discharge shall not be deemed to be a conviction (imposing any disqualification or disability) for any purpose other than the purposes of this Act, except where an offender not less than 17 who is conditionally discharged

However this section will not affect the right of an offender to appeal against his conviction or to plead autrefois convict, nor

quence of the conviction. A person of or over 21 shall be treated for the purposes of the First Offenders Act, 1958, as a first offender

shall be determined without regard to s. 12 of the C.J. Act, 1948.

This " discharge " of a convicted offender should not be confused with the discharge of an accused person by examining justices who are not satisfied that there is sufficient evidence to put him on trial for any indictable offence.

Probation of Offenders. The Criminal Justice Act, 1948,

S. 3: Where a court convicts a person of an offence (for which the sentence is not fixed by law, see s. 80) the court, having regard to the circumstances including the nature of the offence and the character of the offender, may, instead of sentencing him, make a probation order, that is an order requiring him to be under the supervision of a probation officer for a specified period not less than one year nor more than 3 years. The order

ments as the court considers necessary for securing his good conduct or for preventing future offences. Such an order may include requirements as to the residence of the offender after the court has considered his home surroundings.

Payment of damages for injury or compensation for loss must not be included in a probation order, but the court, under s. 11 of the Act, may make a separate order dealing with same.

addition to a probation order, as a fine was a sentence.

Before a probation order is made, the court shall explain to the offender the effect of the order (and requirements) and that, if he fails to comply or commits another offence, he will be liable

than 14, the order shall not be made unless he expresses his willingness (consent) to comply with the requirements thereof.

court when he was under 17).

S. 4: Where a court is satisfied, on medical evidence, that the mental condition of an offender is such as requires and may be

in pursuance of a hospital order under Part V of the Mental Health Act, 1959, the court may, if a probation order is made, include a requirement that the offender shall submit to medical treatment as specified in the section. However the offender (or parent or guardian if he is under 17) in such case, if he so desires, is entitled to call rebutting evidence before any such order and requirement is made.

on the application of the probationer or probation officer, discharge it. A supervising court (which means a magistrates' court or juvenile court for the place named in the order, s. 80) may amend a probation order. It may cancel or add requirements within the limits laid down in the Schedule but cannot reduce the period of probation or extend it beyond the 3 years. If the order is to be amended on the application of the probation officer the

than 14, the court cannot amend unless he agrees to comply with the amendment. This is not necessary if the amendment amounts to a reduction of the requirements.

S. 6: If during the period of probation a probationer fails to comply with any of the requirements of the order, a justice of the supervising court (see above) may issue summons or warrant to bring him before that court.

That court may fine him up to £10 or order him to attend at an attendance centre if he is so liable under the conditions of s. 19

had been ordered by a summary court, may deal with him for the original offence (if so probation would end, s. 5 (4)) or, if the probation order had been made by Assizes or Quarter Sessions, commit him in custody or on bail to appear before that court which may deal with him for the original offence. However a probationer required to submit to mental treatment (under s. 4) who refuses to undergo any surgical or other treatment, shall not be regarded as failing to comply with the requirement if the court considers his refusal was reasonable.

S. 8: If a probationer has been convicted and dealt with in any part of Great Britain for an offence committed during his period of probation, a judge or justice, authorised under this section, may issue summons or warrant to bring him before the court which made the probation order. If that court was a magistrates' court the summons or warrant should direct his appearance before the supervising court (see above) but if the warrant directs his appearance before Assizes or Quarter Sessions and such court

or on bail to the Assizes or Quarter Sessions concerned.

If the probation order had been made by Assizes or Quarter Sessions and the subsequent offence had been dealt with by a

CHAPTER XXVIII. PREVENTION OF CRIME

357

magistrates' court, that court can commit him in custody or on

Assizes or Quarter Session convict a person of an offence committed during the period of probation ordered by such a court or by a magistrates' court, the Assize or Quarter Sessions court can deal with him for the original offence. If a magistrates' court convicts a person of an offence committed during a period of probation ordered by another magistrates' court, that court, with the consent of the supervising court of the other place, may deal with him for the original offence.

land.

S. 11 (1): A court which makes a probation order may allow any person to give security for the good behaviour of the offender. Under s. 55 of the C. and Y.P. Act, 1933, a court may require the parent or guardian of a juvenile to give such security.

(2): A court on making a probation order, may, in addition to awarding costs, order the offender (or in the case of a child or young person his parent or guardian (C.J. Act, 1961, s. 8)) to pay damages for injury or compensation for loss, in the case of a magistrates' court not exceeding £100 or any greater sum as may be allowed by any other enactment.

S. 12: A conviction on which a probation order is made shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order was made and of any subsequent proceedings against the offender under the foregoing provisions of the Act, provided that this shall not apply to the conviction where an offender, not less than 17 when put on probation, is subsequently sentenced for his original offence. Probation after conviction shall not be regarded as a disqualification.

does not prevent the offender from appealing against his conviction or relying on it in bar of any subsequent proceedings for the same offences nor does it affect the revesting or restoration of any property in consequence of the conviction. This section is

under " Discharge of Offenders ", above.

S. 43: Where a probation officer makes a report to a court (other than a juvenile court) to assist the court in dealing with an offender, a copy of the report shall be given to the offender or his Counsel or Solicitor. However, if the offender is under 17 and is not represented, a copy need not be given to him, but shall be given to his parent or guardian if present in court.

S. 45 and 5th Sched. make arrangements for probation areas, probation committees, case committees for petty sessional

that it shall be the duty of probation officers to supervise probationers and other persons placed under their supervision, and to

advise, assist and befriend them, to enquire, as directed by the

so as to assist the court in dealing with his case, to advise, assist and befriend as prescribed, persons who have been released from custody and to perform such duties as may be prescribed or

the Probation Rules, 1949-1955.

S. 46: The Secretary of State may approve and make rules for premises for persons required to reside therein by a probation order or a supervision order and such premises shall be known as " approved probation hostels" if the residents are employed outside the premises and in any other case as " approved probation homes ".

S. 47: Any institution which is not an approved probation hostel or home, in which a probationer or supervisee is required to reside otherwise than for mental treatment shall be subject to government inspection and a person appointed by the Secretary of State shall have power to enter and investigate the treatment of residents, and anyone who obstructs him will commit a summary offence.

M.C. Act, 1952, s. 71, allows a court to order a person adjudged to pay a sum by summary conviction, to be placed under the supervision of a named person until the fine is paid. Such a person should befriend and advise the offender so as to induce him to pay and avoid committal to custody and should inform the court as to the offender's circumstances (M.C. Rules, 1952, r. 46).

Borstal Institution. C.J. Act, 1948, s. 20 (1): When a person not less than 16 but under 21 is convicted on indictment of an

character and previous conduct and to the circumstances of the offence, the court considers that it is expedient for his reformation

training in a Borstal Institution, the court may sentence him to Borstal training. After release the offender shall be subject to

the latter part of his term of detention (s. 45, Prison Act, 1952 and s. 32, C.J. Act, 1961).

A magistrates' court which convicts such an offender may, if it considers it appropriate, commit him in custody to Quarter Sessions for sentence to Borstal training (s. 28, M.C. Act, 1952). C.J. Act, 1948, s. 20 (5): Quarter Sessions may do so or deal with him in any manner in which the magistrates' court might have dealt with him. If Quarter Sessions so sentence him. he

convicted on indictment. Ss. (7): Before an offender is committed for such sentence or so sentenced the court concerned must

CHAPTER XXVIII. PREVENTION OF CRIME

359

consider a report from the Prison Authorities on the offender's physical and mental condition and his suitability for such a sentence. If necessary, the offender after conviction may be remanded in custody for a period or periods not exceeding 3 weeks until such report is received and considered. Ss. (8): A copy of such report shall be given to the offender or his Counsel or Solicitor.

Prison Act, 1952, s. 43: The Secretary of State may provide Borstal Institutions and the Prison Act shall apply to them and to the persons detained therein, and the regulations as to registra-

Prison Act, 1952, s. 47: The Secretary of State may make rules for the management of Borstal Institutions and the treatment of persons detained therein.

S. 46: A person who is required to be taken to a Borstal Institution may be temporarily detained elsewhere until arrangements can be made for taking him there.

S. 44: If a person under 21 is serving a sentence of imprisonment, the Secretary of State, after consultation with the judge or chairman of the court which passed the sentence, may authorise his transfer to a Borstal Institution. If a person detained in a Borstal Institution is incorrigible or exercises a bad influence on other inmates the Secretary of State may authorise his transfer to prison for the unexpired period of his detention.

S. 49: A Borstal trainee who is unlawfully at large may be arrested by a constable without warrant and taken back to the Institution.

S. 45 (as amended by s. 11, C.J. Act, 1961). A person sentenced to Borstal training shall be detained in a Borstal Institution for at least 6 months unless otherwise directed by the Secretary of State and as long as the Prison Commissioners determine but not longer than 2 years. After release such a person, for 2 years from the date of his release, shall be under the supervision (with any specified requirements) of a society or person named by the Prison Commissioners, who may at any time modify or cancel the requirements or cancel the supervision. If such a supervisee fails to comply with any of the requirements he may be recalled, by order made by the Prison Commissioners, to a Borstal Institution and is liable to be detained there until the 2 years end or for 6 months after his arrest under the order. If he does not come back voluntarily he will be unlawfully at large and under s. 49 may be arrested by a constable without warrant and taken back to the Borstal Institution. S. 12, C.J. Act, 1961 authorises a magistrates' court to return to Borstal an offender convicted of another offence while he is an absconder or on release under supervision.

For offence of harbouring escapees, see "Prison Breach", Chap. 21.

Persistent Offenders. The Criminal Justice Act, 1948, s. 21, deals with persistent offenders who have committed several

360 PART VI. OTHER OFFENCES AND
REGULATIONS

persistent offender, if sentenced to imprisonment may, under s. 26, Prison Act, 1952, be released on licence and placed under supervision.

Corrective Training. C.J. Act, 1948, s. 21 (1). Where a person not less than 21 is convicted on indictment of an offence

convicted at least twice since he was 17, of offences so punishable on indictment, he may be sentenced to corrective training for at least 2 and not more than 4 years. Such training is to be of a -
vention of crime, given in prison in the nature of special treatment according to rules made under s. 47 of the Prison Act, 1952. It is imprisonment of a special type. See also ss. 21 (4) and 23, as given below, which also apply to corrective training. This may be followed by supervision if he is released on licence before

For offence of harbouring or assisting escapees see " Prison

Preventive Detention. C.J. Act, 1948, s. 21 (2). Where a person not less than 30 is convicted on indictment of an offence punishable with imprisonment for 2 years or more and has been convicted on indictment on at least three previous occasions since the age of 17, of offences so punishable on indictment and was on

preventive detention for not less than 5 or more than 14 years.

Such detention in prison should be for a substantial time for

with rules made under s. 47 of the Prison Act. 1952, and it may be followed by supervision if released on licence before the expiration -

detention should have been in Great Britain.

C.J. Act, 1948, s. 21 (4): A report from the Prison Commissioners as to the offender's physical and mental condition and

detention shall be considered by the court before passing sentence, and a copy of it shall be given to the offender or his Counsel

on shall be given to the offender and to the court at least 3 clear days before the trial [*R. v. Long* (1960)].

For offence of harbouring or assisting escapees see " Prison

Release on Licence and Supervision. The Prison Act, 1952, provides:

CHAPTER XXVIII. PREVENTION OF CRIME

361

S. 26: The Prison Commissioners may release on licence a person sentenced to corrective training or preventive detention after he has served such portion of his sentence as laid down in rules. The Secretary of State may require the release of a person so sentenced at any time.

with the requirements specified in the licence which may include a requirement that he shall be under the supervision of a named person or society. If he fails to comply with any requirement he may, by order, be recalled to prison, and if he does not obey he shall be deemed to be unlawfully at large (and can be arrested by a constable without warrant and taken back to prison, s. 49).

S. 25: A person serving a term of imprisonment may be granted a remission of part of his sentence for his industry and good conduct. If a person under 21 is sentenced to imprisonment, instead of part of his sentence being remitted he may be released on licence.

During his period of release on licence such young offender shall be under the supervision of a named society or person and shall comply with any requirements imposed.

If he fails to comply with any requirement he can be recalled, by order, to prison, and if he does not come he will be unlawfully at large and may be arrested (as above).

S. 27: The Secretary of State may at any time release on licence with conditions a person serving a term of imprisonment for life. He may cancel or modify the conditions and may at any time by order recall the person to prison. If he does not come he will be unlawfully at large and may be arrested and brought back to prison (see above).

The provisions of the above sections have been extended throughout the United Kingdom, the Channel Islands and the Isle of Man by s. 32, C.J. Act, 1961.

Special Offenders. Prevention of Crimes Act, 1871, s. 7,

(the second time on indictment) to do certain dishonest or suspicious acts within seven years after his last sentence.

Such an offender may therefore be termed a Special Offender under section 7 of this Act, and he is liable summarily to one year's imprisonment. He has the right to claim trial on indictment.

ment of a crime and a previous conviction of a crime has been proved against him, and who at any time within seven years after the expiration of the sentence passed on him for the last of such crimes:

(1) Is brought before a Magistrates' Court, charged with

getting his livelihood by dishonest means, and the Court is satisfied that there are reasonable grounds for believing such charge is correct, or

(2) Is charged with any offence and on being required by a Magistrates' Court to give his name and address, refuses or gives a, false name and address, or

(3) Is found in any place, whether public or private, under such circumstances as to satisfy the Court before whom he is brought that he was about to commit or to aid in the commission of any offence, or was waiting for an opportunity so to do. (If charged with "about to commit" there must be evidence to prove that he was then and there about to commit the offence, *R. v. Goodwin* (1944)), or

(4) Is found in or upon any dwelling-house or any building, yard or premises being parcel of and attached to such dwelling-house, or in or upon any shop, warehouse, counting-house, or other place of business or in any garden, orchard, pleasure ground or nursery ground or any building or erection therein, without being able to account to the satisfaction of the Court before whom he is brought for his being found on such premises. ("Found" is not equivalent to "arrested", so actual arrest on the spot is not necessary, *R. v. Goodwin* (1944)).

Power to arrest a special offender:

(1) Any constable, if authorised to do so by his chief officer, may arrest without warrant any such special offender on reasonable grounds for believing he is getting his livelihood by dishonest means.

(2) Any constable may without warrant arrest any such special offender whom he finds in any place, public or private, under circumstances indicating that he was about to commit or to aid in committing any offence, or that he was waiting for an opportunity to commit or aid in committing any offence.

(3) Any constable or the owner or occupier (or his servant or person authorised by him) may without warrant arrest any such special offender found in or upon any dwelling-house, yard, etc., shop or place of business, or garden, pleasure ground, etc., who does not satisfactorily account for his presence therein (s. 7).

"Crime" in this s. 7 means "crime" as denned in s. 20 of the Prevention of Crimes Act, 1871, as meaning any felony, or the offence of uttering false or counterfeit coin, or of possessing counterfeit gold or silver coin, or obtaining money or goods by false pretences, or conspiracy to defraud, or the misdemeanours in s. 28, Larceny Act, 1916 (which replace those in s. 58, Larceny Act, 1861) that is, being found by night either in possession of housebreaking implements without lawful excuse, or armed or disguised or in any building with intent to commit any felony.

The expression "offence" is denned in this s. 20 as meaning any act or omission which is not a crime as denned by this Act, and is punishable on indictment or summary conviction.

CHAPTER XXVIII. PREVENTION OF CRIME

363

Loiterers and Suspected Persons. The police have by law great powers for the arrest and prosecution of persons who by their actions appear likely to commit crime.

Frequenting and Loitering. Any person may arrest without warrant every suspected person or reputed thief frequenting or loitering about or in any river, canal or navigable stream, dock or basin, or any quay, wharf or warehouse near or adjoining thereto, or any street, highway or avenue leading thereto, or any place of public resort or any place leading thereto, or any street, highway or any place adjacent to a street or highway, with intent to commit felony (Vagrancy Act, 1824, s. 4, amended by Penal Servitude Act, 1891, s. 7).

The prisoner may be convicted of this offence if from the circumstances of the case and from his known character as proved to the Justices, it appears that his intent was to commit a felony. It shall not be necessary to show that the prisoner was guilty of any particular act or acts tending to show his purpose or intent (Prevention of Crimes Act, 1871, s. 15). See also "Extent of Evidence", Chap. 7.

On conviction, prisoner will be treated as a rogue and a vagabond and is liable to three months imprisonment from two Justices (Vagrancy Act, 1824).

A "suspected person" under this section would appear to be a person who has acquired the character of a suspect by reason of his previous conduct.

His previous convictions, etc., need not be known by the police who arrested him (*R. v. Clarke* (1950)).

In *Hartley v. Elinor* (1917), it was held that there need not be evidence of a previous conviction or of previous bad character, but that the conduct of the accused on the day in question might be sufficient to render him a suspected person.

In *Ledwith v. Roberts* (1937), it was held that there must be some previous act occasioning suspicion prior to the final act indicating the intent to commit felony; in other words, one transaction by itself is not sufficient to justify arrest under the

The conduct or character of the person must be such as to show he is a "suspected person".

did not overrule *Hartley v. Elinor* and that "frequenting"

and does not depend on one single act.

Therefore to justify arrest as a suspected person one single suspicious act is not sufficient, and the prisoner's previous conduct should have been such as would make him a suspected person before his actual behaviour indicating intent to commit felony which occasioned his arrest.

The driver of a motor vehicle may be a "loiterer" and also a "suspected person" see *Bridge v. Campbell* (1947).

A "reputed thief" would appear to be a person who from his associates, conduct, and general mode of living has previously come under notice as a person probably engaged in thieving.

Where prisoner has been previously convicted as a rogue and a vagabond, or where prisoner on arrest as a rogue and a vagabond (as above) violently resists arrest, he shall, on being convicted of the offence for which he was arrested, be deemed an incorrigible rogue, and the Court should commit him to prison until the next Quarter Sessions, and Quarter Sessions can order further im-

Night Loitering. A constable may arrest without warrant any person he finds lying or loitering in any highway, yard or other place during the night (viz. between 9 P.M. and 6 A.M.) and whom he has good cause to suspect of having committed or being about to commit any felony against the Act, and shall take such person as soon as reasonably may be, before a Justice to be dealt with according to law (Larceny Act, 1916, s. 41, Malicious Damage

such cases the person can be bound over unless some definite offence can be proved.

The chief felonies under the Acts are larceny or stealing, robbery, sacrilege, burglary, housebreaking, receiving goods feloniously stolen, killing animals with intent to steal, damaging fixtures, trees, etc., with intent to steal and demanding with menaces with intent to steal.

Found on Premises. Any person may arrest any person found in or upon any dwelling-house, warehouse, coach-house, stable or outhouse, or in any inclosed yard, garden or area for any unlawful purpose. The unlawful purpose must be the commission of some criminal offence. Prisoner will be dealt with as a rogue and a vagabond, and is liable to three months imprisonment (Vagrancy Act, 1824, s. 4).

Any person may arrest without warrant every person who shall be found by night in any building with intent to commit any felony therein. This offence is a misdemeanour (Larceny Act, 1916, s. 28).

The accused need not necessarily be arrested inside the building but there should be evidence that he had been found inside it (*R. v.*

Housebreaking Implements. Any person may arrest any person having in his or her custody or possession any picklock, key, crow, jack, bit or other implement with intent feloniously to break into any dwelling-house, warehouse, coach-house, stable, or outbuilding. Prisoner will be dealt with as a rogue and a vagabond, and is liable to three months imprisonment (Vagrancy Act, 1824, s. 4).

Any person may arrest without warrant every person who shall be found by night having in his possession without lawful

CHAPTER XXVIII. PREVENTION OF CRIME

365

excuse (onus of proof rests on such person) any key, picklock, crow, jack, bit or other implement of housebreaking. This offence is a misdemeanour (Larceny Act, 1916, s. 28). (Any

such an implement if the jury find it to have been in possession for that purpose. *K. v. Oldham* (1852)).

person armed with any gun, pistol, hanger, cutlass, bludgeon or

with intent to commit any felonious act. Prisoner will be dealt with as a rogue and a vagabond, and is liable to three months imprisonment (Vagrancy Act, 1824, s. 4. See also Firearms Act, 1937, s. 26. See also " Prevention of Crime Act, 1953 ", Chap. 3, and " Robbery ", Chap. 14).

Any person may arrest without warrant every person who

definite building) and commit any felony therein. This offence is a

Any person may arrest without warrant every person who shall be found by night having his face blackened or disguised

A county borough constable while on duty may arrest any idle and disorderly person whom he finds disturbing the public peace or whom he has just cause to suspect of intention to commit a felony (Municipal Corporations Act, 1882, s. 193 and Police Act, 1946, s. 1).

outhouse, or in any deserted or unoccupied building, or in the open air, etc., as more fully described under " Vagrancy Frauds ". Chap. 27 and not giving a good account of himself or herself.

three months imprisonment (Vagrancy Act, 1824, s. 4. and Vagrancy Act, 1935).

Prisons. The Prison Act, 1952, has repealed previous Acts relating to prisons and discharged prisoners and contains several provisions formerly in the Criminal Justice Act, 1948, which have been included wherever appropriate in these pages.

S. 8: Every prison officer while acting as such has all the powers, etc. of a constable. See " Arrest ", Chap. 3.

confined in or is being taken to or from any prison and while he is working or is otherwise outside the prison in the custody or

S 18: Corporal punishment may be ordered in prisons under Rules and on confirmation by the Secretary of State.

366 PART VI. OTHER OFFENCES AND REGULATIONS

S. 22 deals with the removal of prisoners for judicial or other purposes (see " Habeas Corpus " Chap. 5).

S. 23: For taking a person to or from any prison (or place of detention, s. 43) under competent and proper order, a constable or other officer may act outside the area of his jurisdiction, having all the powers, etc., of his office.

S. 39: Any person who aids any prisoner in escaping or attempting to escape from a prison or who, to help an escape, conveys anything into a prison or to a prisoner or places anything outside a prison for a prisoner, shall be guilty of felony see " Prison Breach ", Chap. 21.

S. 40: The unlawful conveyance of spirits or tobacco into a prison or to or for a prisoner, or an officer allowing same. Summary Offence.

S. 41: The unlawful conveyance of any letter or any other thing into or out of a prison or to or for a prisoner. Summary Offence.

S. 43: The following provisions apply to remand centres, detention centres and Borstal institutions:

S. 6 (board of visitors); s. 13 (legal custody); s. 16 (photographs, etc.); s. 18 (no corporal punishment); s. 19 (justice may visit); s. 22 (removal); s. 23 (constable's power); ss. 31, 32 (allowance to discharged prisoner); s. 39 to 41 (offences re escape, etc.).

The following provisions will not apply

S. 25 (remission or licence); ss. 26 to 28, and 30 (release on licence).

S. 49: A constable may arrest without warrant any prisoner unlawfully at large, see " Arrest ", Chap. 3.

S. 53: " Prison " does not include a naval, military or air force prison.

The Prison Rules, 1949, r. 52 and 1962 deal with the treatment of prisoners,

Restriction of Offensive Weapons. Any person who manu-

his possession for the purposes of sale or hire or lends or gives to any other person (a) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a " flick knife " or " flick gun ", or (b) any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever, or other device, sometimes known as a " gravity knife ", shall be guilty of an offence.

The importation of any such knife is prohibited. (Restriction of Offensive Weapons Acts, 1959, 1961).

Chapter XXIX

PERSONS

Contents

	Page		Page
Aliens		Pharmaceutical Chemists	374
367 Commonwealth Immigrants		Nurses	374
371		Midwives	375
Husband and Wife .	372	Master and	375
Landlord and tenant	373	servant	375
Clergymen	373		375
	373	Persons. Old,	
Doctors	374	Disabled Sick, etc.	
	374		
	374		

country. An alien, while in this country, is subject to its laws just as if he were a British subject.

Under the British Nationality Acts 1948 to 1958 every person who is a citizen of the United Kingdom and Colonies or who is a citizen of Canada, Australia, New Zealand, India, Pakistan, Federation of Rhodesia and Nyasaland, Ceylon, Ghana, Federation of Malaya, Singapore, Cyprus, Nigeria, Sierra Leone and Tanganyika, may be known either as a British subject or as a Commonwealth citizen, both of which expressions shall have the same meaning (s. 1).

" Alien " as regards the Aliens Order means a person who is not a British subject, a citizen of Eire or a British protected person (from a protectorate, mandated territory) (s. 32).

The Irish Free State, later known as Eire and now called the Republic of Ireland is not part of the United Kingdom but is not a foreign country for the purposes of any law in force in any part of the United Kingdom. An Eire citizen is not a British subject but is not an alien and is treated as a British subject while in the United Kingdom. Northern Ireland remains part of the United Kingdom (Ireland Act, 1949, which also deals with the operation of the British Nationality Act, 1948).

The Aliens Restrictions Acts, 1914 and 1919, deal with the regulation of aliens in the United Kingdom and authorise the issue of Orders in Council thereon. The 1914 Act applied during a state of war or on occasion of imminent national danger or great emergency and its powers were extended for a year in 1919 and were continued yearly by the Expiring Laws Continuance Acts. The onus of proving a person is not an alien rests on that person (1914 Act, s. 1). The term " United Kingdom ", unless the context otherwise requires, means Great Britain and Northern

368 PART VI. OTHER OFFENCES AND REGULATIONS

Ireland (Royal and Parliamentary Titles Act, 1927). Under the 1919 Act, it is an offence for an alien to attempt to cause disaffection, or to promote industrial unrest (s. 3). See "Sedition". Chap. 20. An alien must not change his name from the name by which he was known on 4th August, 1914, unless the change is legally authorised (s. 7). An alien, if challenged by any party, shall not sit upon a jury (s. 8), nor shall an alien be appointed to an

certain aliens was allowed by orders in 1941 and 1945.

The admission, supervision, etc., of aliens is regulated by the Aliens Orders, 1953, 1957 and 1960.

Landings and Embarkation. An alien shall not land or embark in a ship or aircraft except with leave of an immigration officer, and he should do so at an approved port (Art. 1). This will not apply to the crew of the vessel unless otherwise prohibited or

Also this will not apply to an alien travelling in the "common travel area", (the United Kingdom, Channel Islands, Isle of Man and Republic of Ireland) but will apply to an alien coming from the Republic of Ireland where he landed without leave (Art. 3).

Except with the permission of the Secretary of State leave to land shall not be granted to an alien:

- (1) unless he can support himself and dependants and if he comes to employment unless he has a written permit from the Minister of Labour;
- (2) if he has been sentenced abroad for an indictable offence;
- (3) if he is of unsound mind or mentally defective;
- (4) if undesirable for medical reasons (Art. 4).

Leave to land may be granted subject to any specified landing conditions (Arts. 5, 6).

an immigration officer, produce in every case a valid passport with photograph or document of identity, and if he is an alien produce a landing or embarkation card (supplied by the ship or aircraft)

examine any person seeking to land or embark to ascertain whether he is or not an alien. However this Article does not apply to persons travelling within the "common travel area" (see above) except persons coming from the Republic of Ireland who did not get leave to land there (Art. 7).

If an alien is refused permission to land the ship or aircraft in which he came may be directed to take him away and he may be detained until that *is* done (Art. 8).

This expulsion power shall apply to any alien landing unlawfully, and a member of a crew or a stowaway may be expelled even after two months (Art. 9).

Masters of ships and commanders of aircraft coming into or their passengers and crews (Art. 10).

They shall prevent from landing any persons who have to be examined and may detain them (Art. 11).

Any alien landing or embarking, except within the "common travel area", to or from abroad shall, if required by an immigration officer, declare whether he is carrying any documents and if so shall produce them. An immigration officer or constable may search any such alien and his baggage and detain any documents for examination (Art. 12).

Registration. Each police area is a registration district with a local register of aliens. The registration officer is the Chief Constable who can authorise any constable or other person to act for the purposes of the Order (Art. 13). An alien who is in the United Kingdom under restriction on the length of his stay must register. Such an alien must attend at his local registration office and produce his passport or other document of identity or explain its absence (Art. 14). An alien who has supplied the particulars before or who is one of the crew of a ship and lands or whose length

need not register until after 3 months after his entry unless required to do so by a landing condition or a notice by The Secretary of State and an alien coming from the Republic of Ireland has to comply with the special provisions of the First Schedule to the Order (Art. 15). Registration certificate costs 5 shillings.

A registered alien who has a residence in the United Kingdom, registration officer of the area within 7 days. When he is absent from his residence for over 2 months he must report his address and any later address and his return to his registration officer. If the alien has no residence and travels about, after 7 days in any registration district he must report there forthwith, and if he changes address in any district he must report his new address there within 7 days. If an alien has no address he may have a resident referee to whom he shall report changes of address and who will keep the registration officer informed (Art. 16).

A registered alien shall notify within 7 days any alteration in the particulars he supplied and shall, if required, give any necessary information to the registration officer including two recent photographs of himself (Art. 17).

shall produce either his registration certificate or his passport or other document of identity, or else give a satisfactory explanation for not producing. (Art. 18).

The keeper of any premises furnished or unfurnished where lodging or sleeping accommodation is provided for reward (except premises exempted by the Chief Constable such as schools,

there for one night or more. Every such person, on arrival, shall

give his name and nationality. If he is an alien, he shall also give particulars of his passport or registration certificate, and on departure give his next destination. The keeper of the premises shall ask for all this and keep a record of same for at least 12 months (Art. 19). Contravention of this Art. 19 by a non-alien or any offence in respect of the register or statement required, is an

for a prosecution, (Art. 26). See Aliens (Registration in Hotels) Regs. 1946, and the Aliens Order 1957.

Deportation. The Secretary of State may order the deportation of an alien in the following cases:

- (1) If a Court certifies that the alien has been convicted of (a) any offence for which it has power to impose *a*. sentence of imprisonment in the case of an offender of full age, or (*b*) any prostitution offence; and the court recommends deportation, or
- (2) If he considers deportation would be for the public good.

Also if the Secretary of State approves an alien may be expelled from the Isle of Man and deported (Art. 20). An alien to be deported may be detained until deported. An alien sentenced to imprisonment and recommended for deportation shall be detained until the Secretary of State orders his deportation or his release. A deported alien will be kept on aircraft or ship until it leaves for a specified port where he is to be landed (Art. 21).

General. An offence against the Order is punishable summarily by fine up to £100 or by up to 6 months imprisonment and the offender may be bound over to comply with the Order. If he fails to enter into recognizances when so bound over he may be sent to prison for up to 6 months (Art. 26).

An offence against the Order includes any contravention or non-compliance with the Order, aiding or abetting an offence against the Order, knowingly harbouring such an offender, making false returns, etc., refusing information, etc., obstructing officer, altering documents under the Order (Art. 25).

A constable or immigration officer may arrest without warrant any person who has committed or is reasonably suspected to have committed an offence against the Order (except an offence against Art. 19 re hotel registers) and any person who may be detained under the Order.

When an alien is thus in custody (which is legal custody) reasonably necessary steps may be taken for photographing, measuring or otherwise identifying him (Art. 28).

The Secretary of State may impose special restrictions on any alien or class of aliens (Art 22). He may exempt persons from the provisions of the Order (Art. 23).

The Order shall not apply to envoys (and their staffs) or foreign powers accredited to Her Majesty.

A British protected person is not an alien as regards this Order.

An alien serving in H.M. Forces or the Forces of India or in the United Kingdom while serving in several allied Forces will not be

Any police station may be a place of detention for up to 5 (non production) and Art. 20 (deportation). See Aliens (Places of Detention) Order, 1954.

For the law as to the national status of married women, see

Commonwealth Immigrants Act, 1962. This Act provides for the control of immigration to the United Kingdom of Commonwealth citizens and among other matters authorises the deportation from the United Kingdom of certain Commonwealth citizens convicted of offences and recommended by the Court for

The Act is in 3 parts. Part I (ss. 1-5) deals with the control of immigration, but is only to remain in force until 31 Dec. 1963, - tains permanent provisions authorising the deportation from the U.K. of certain persons, and Part III (ss. 12 - 21) contains miscellaneous and general provisions.

Section 1 applies to any Commonwealth citizen not being (a) a person born in the U.K.; (b) a person who holds a U.K. passport and is a citizen of the U.K. and colonies, or who holds such a passport issued in the U.K. or the Republic of Ireland, or (c) a person included in the passport of another person who is excepted under paragraphs (a) or (b) (s. 1 (2)).

Part I of the Act applies to British protected persons and citizens of the Republic of Ireland as it applies to Commonwealth citizens (s. 1 (4)).

applies (a) enters or remains within the U.K. otherwise than in accordance with the directions, or under the authority of an immigration officer, or (b) contravenes or fails to comply with any condition imposed on him, he shall be guilty of an offence (s. 4 (1)).

If any person knowingly harbours any person whom he knows or has reasonable grounds for believing to have committed an offence by entering or remaining within the U.K., he shall be guilty of an offence (s. 4 (2)).

Part II of the Act shall have effect for authorising the deportation from the U.K. of Commonwealth citizens to whom s. 6 of the Act applies who are convicted of offences punishable with imprisonment and recommended by the court for deportation (s. 6 (1)).

Section 6 applies to any Commonwealth citizen not being (a) a person born in the U.K., or whose father was born in the U.K., or whose parents (or either of them) were ordinarily resident in the U.K. at the time of his birth; (b) a citizen of the U.K. and colonies

who became such (i) by being naturalised in the U.K., or (ii) by being adopted in the U.K., or (iii) by being registered under Part II of the British Nationality Act, 1948; or (c) the wife of a person specified in paras. (a) or (b) above (s. 6 (2)).

Part II of the Act applies to British protected persons and citizens of the Republic of Ireland as it applies to Commonwealth citizens (s. 6 (3)).

The burden of proving that he is exempt from liability for deportation under the Act lies on the defendant (s. 6 (4)).

Section 7 of the Act empowers a court to recommend persons for deportation and ss. 8-10 deal with the making of deportation orders etc.

If any person in respect of whom a deportation order is in force (a) having left the U.K. after notice of the making of the order has been given to him, subsequently returns to the U.K., or (b) having been placed on board a ship or aircraft lands from that ship or aircraft before it has left the U.K., he shall be guilty of an offence. This is a continuing offence while he remains in the U.K. (s. 11 (1)).

If any person upon whom any restriction or requirement is imposed by para. 2 of the 2nd Schedule of the Act (which deals with the detention and control of persons subject to deportation) fails to comply with that restriction or requirement, he shall be guilty of an offence (s. 11 (2)).

If any person knowingly harbours any person whom he knows or has reasonable grounds for believing to have committed an offence under s. 11 (1) he shall be guilty of an offence (s. 11 (4)).

A constable or immigration officer may arrest without warrant any person whom he has reasonable grounds to believe to have committed an offence under Ss. 4 (1), 11 (1) or 11 (2) (s. 14 (3)).

Husband and Wife. As regards any defence of coercion or to a Crime " (Chap. 2). As regards conspiracy, see Chap. 23.

or *vice versa*, see " Accused Persons and their Husbands or Wives ", Chap. 7.

husband, the taking by the one of the property of the other was not an offence. However, the Married Women's Property Act, 1882, ss. 12, 16, and the Law Reform, etc., Act, 1935, altered this, and now, as a result of s. 36 of the Larceny Act, 1916 (as amended) :

(1) A wife has the same remedies and redress for the protection and security of her own separate property as if she were an unmarried woman.

(2) A wife cannot prosecute her husband under the Larceny Act, and *vice versa*, while they are living together.

(3) A wife can prosecute her husband under the Larceny Act, and *vice versa*, if they are living apart and if the act was not done while they were living together, or if the property was taken when leaving or deserting with a view to their ceasing to live together.

Landlord and Tenant. A landlord of a house may be held

It is a misdemeanour for a tenant of any building to unlawfully and maliciously damage such building or detach any fixture (Malicious Damage Act, 1861, ss. 13 and 59). See Chap. IS.

to steal any chattel or fixture let to be used in or with the house (s. 16), or for any person to steal or damage with intent to steal anything fixed in or to any premises, or any tree, shrub, etc., belonging to such premises (s. 8). See " Statutory Larcenies ", Chap. 14.

Clergymen. Ministers of religion are by law specially protected when engaged in carrying out their duties in a place of Divine worship or in a burial ground, as follows:

Offences against the Person Act, 1861, s. 36: This section makes it a misdemeanour to obstruct, prevent or endeavour to obstruct or prevent any clergyman or other minister in or from celebrating Divine service or officiating in any place of Divine service or in the performance of the burial service. It is also a misdemeanour to strike or offer any violence to any clergyman or other minister engaged in the discharge of his duties as above.

Ecclesiastical Courts Jurisdiction Act, 1860, s. 2: It is a summary offence to molest, disturb or by any unlawful means disquiet or misuse any authorised preacher or clergyman celebrating any Divine service or office in any church, chapel or burial ground, and under s. 3 the offender may be arrested by any churchwarden or constable. See " Disturbing Public Worship ", Chap. 20.

Lawyers, etc. It is not lawful for a person who is not a

to act as such.

It is a summary offence for any unqualified person to wilfully pretend to be a qualified solicitor (Solicitors Act, 1957).

Various statutes allow certain authorised persons, who may not be lawyers and usually are not, to conduct Court proceedings before magistrates: for example, national assistance officers, inland revenue officers, factory inspectors, school inspectors, etc.

Various Acts authorise legal proceedings by a local authority for breaches of the Acts. Under s. 277, Local Government Act, 1933, a local authority can authorise any member or officer of the authority to institute and carry on (or defend) summary proceedings. However a police officer is not a servant or agent or

Doctors. It is an offence for any person to represent himself to be a registered medical practitioner when in fact he is not one.

medical profession may register himself with the Medical Council, and his name will appear on the yearly " Medical Register ".

The Medical Act, 1858 as amended by the Medical Act, 1950, makes it a summary offence for any person to wilfully and falsely pretend that he is a physician, doctor, surgeon, apothecary, etc.,

physician, etc.

Dentists. It is a summary offence for any person to practise or hold himself out as practising dentistry unless he is registered in the Dentists' Register. However, a registered medical practitioner may practise dentistry, and a registered chemist may extract teeth in urgent cases.

A company may carry on the business of dentistry if its business is confined to dentistry and the majority of its directors and all the operating staff are registered dentists.

Hospitals and approved dental schools may also carry on the business of dentistry. See the Dentists Acts, 1956 and 1957.

Veterinary Surgeons. The Veterinary Surgeons Act, 1881,

or Fellow of the Royal College of Veterinary Surgeons to state or imply that he is one. See also Veterinary Surgeons Act, 1948.

A register of the Members and Fellows is kept, and an unregistered person who takes or uses the title of veterinary surgeon commits a summary offence.

Poisons Act, 1933, and the Pharmacy Acts, 1953 and 1954, a

himself as a chemist and druggist or druggist or pharmaceutical chemist shall be registered with the Pharmaceutical Society as a

each year (s. 1), and if he sells poisons he should exhibit his certificate of registration in his premises (s. 8) and have his premises registered (*a.* 12). The Statutory Committee of the Pharmaceutical Society may remove his name from the register

Inspectors are appointed by the Society to enforce this Act (s. 25). See also " Poisons ", Chap. 39.

Opticians. The Opticians Act, 1958 established a General Optical Council to regulate the practice of opticians etc. Under

person who is not a registered ophthalmic optician to test the sight of another person; restrictions are placed on the sale and supply of appliances to correct, remedy, or relieve a defect of sight; and penalties are provided for persons pretending to be registered

Nurses. The Nurses Act, 1857, authorised a General Nursing Council for England and Wales and this Council keeps a register of nurses for the sick and a roll of nurses. Before any person may be registered as a nurse and use the title " nurse ", he or she must have undergone the prescribed training and have the prescribed experience in the nursing of the sick. The Council may issue certificates of registration and have power to cancel such registration.

Private agencies for the supply of nurses must be licensed by the relevant local authority (Nurses Agencies Act 1957).

It is a summary offence for any person except a registered the name or title of nurse (Nurses Act 1957, s. 27). See also " Nursing Homes ", Chap. 39.

Mid wives. Under the Mid wives Act, 1951, a woman may not carry on the occupation of a midwife unless she is duly certified and has her name on the roll of midwives kept by the Central Midwives Board or is exempted by order of the local authority under the Emergency Laws (Misc. Provisions) Act, 1953. It is a summary offence for any woman who is not certified under the Act to use the title of midwife or any description im-

an offence for any person not certified under the Act to attend a woman in childbirth unless under the supervision of a medical practitioner or unless in a case of sudden or urgent necessity (s. 9).

Local Health Authorities are required to provide domiciliary midwives adequate for the needs of their areas (National Health Service Act, 1946, s. 23), and when this is done it will be a summary offence for an unqualified person to act as a maternity nurse for

Master and Servant. It is a summary offence to falsely personate a master and give a false servant's character, or to give false particulars of service regarding a servant, or for a person when offering himself as a servant to use a false character or give false particulars of his service (Servants' Characters Act, 1792).

Architects. The Architects (Registration) Act, 1931, established an Architects Registration Council, which keeps a register of architects. The name of a registered person may be struck off the register if he is convicted of a criminal offence or is found guilty of disgraceful conduct as an architect.

Under a similar Act of 1938, a person shall not practise or carry on business as an " architect " unless he is registered, on penalty of fine on summary conviction. This will not apply to the use of the title " naval architect ", " landscape architect " or " golf course architect ", nor to those in the service of a local authority.

37S PART VI. OTHER OFFENCES AND REGULATIONS

Persons, Old, Disabled, Sick, etc. Under the National Assistance Act, 1948. it is a summary offence to carry on a home local Council which can refuse and cancel such registration. All such homes are liable to official inspection (ss. 37-40).

and attention, may be removed to suitable premises on medical certificate and order of a magistrates' court (s. 47).

Under the Public Health Act, 1936. the local authority, on order of a Justice, may remove a person suffering from notifiable disease where there is serious risk of the infection spreading, to hospital and detain such person there (ss. 169, 170).

A magistrates' court, on the application of the local authority, may order an infectious person suffering from tuberculosis of the respiratory tract, to be removed to hospital and detained there (s. 172).

Chapter XXX

HER MAJESTY'S FORCES

Content*

	Page		Page
Interference with military	377	Uniforms	379
False characters .	377	Decorations .	380
False discharges .	377	Billeting	380
Deserters and absentees	377	Requisitioning of Vehicles	381
	378	Incitement to Disaffection	382
	379		

Interference with Military. It is a summary offence for any person wilfully to obstruct or otherwise interfere with any officer, soldier or airman in the execution of his duties. To jure, drug, etc., any soldier so as to enable him to avoid military service is also a summary offence (Army and Air Force Acts, 1955, s. 42). Under the Manoeuvres Act, 1958 it is a summary offence wilfully and unlawfully to obstruct or interfere with the execution of duly authorised military manoeuvres, or, without due authority, to enter or remain in any camp (such trespasser may be removed by any constable or by order of any commissioned officer).

False Characters. It is a summary offence for any person joining or offering to join H.M. Naval, Military or Marine Forces, or making or of any statement as to his character or employment which to his knowledge is false. It is also a summary offence for any person to make a false written statement as to the character or employment of any man, to be used for the purpose of joining H.M. Forces (Seamen's and Soldiers' False Characters Act, 1906).

False Discharges. It is a summary offence to forge the certificate of service or discharge of any person who has served in H.M. Forces, or to forge any certificate purporting to be one of

certificate, or to personate the holder of any such certificate (Seamen's and Soldiers' False Characters Act. 1906).

Deserters and Absentees. The general rule is that on reasonable suspicion a constable may arrest without warrant any deserter or absentee without leave from H.M. regular forces (Navy, Army, Air Force and Marines). See Army and Air Force Acts, 1955, s. 186, and Naval Discipline Act 1957, s. 105.

Such a person may be arrested with or without warrant and should be brought before a Magistrates' Court. The Court may order him to be handed over to an escort or may remand him to

prison or police custody to await an escort. His own authorities will subsequently deal with him.

Where the deserter or absentee has surrendered to or has been arrested by the police, a certificate from the officer in charge of the police station concerned giving the facts will be evidence of the matters so stated.

An absentee who has merely overstayed his leave and is willing to rejoin his unit, when an escort is considered unnecessary, may be put on the train for his unit, having been given a railway warrant if necessary.

Any person who denies he is a deserter or absentee or who asks to be taken before a magistrate should be taken before a magistrates' court (Army and Air Force Acts, 1955, s. 186, and the Naval Discipline Act, 1957, s. 105). If he claims that he is not an absentee or deserter and therefore is not subject to military law, the court should take depositions under the M.C. Act and Rules, 1952. If the court decides that he is, he can appeal to the Divisional Court on a case stated and the magistrates' court should admit him to bail pending the decision. If no such appeal the court will commit him to military custody.

Reservists called out for annual training or on permanent service, who without reasonable excuse fail to join the colours, are liable to arrest, also members of the Territorial Army who fail, without reasonable excuse, to report on embodiment; but the police should not take action in such cases except on instructions from the military authorities.

Men of the Territorial Army who absent themselves from drills or training are not liable to arrest by the police.

It is a summary offence falsely to represent oneself to be a deserter (Army and Air Force Acts, 1955, s. 191, and Naval

It is a summary offence to procure or attempt to procure a soldier, sailor or airman to desert or absent himself without leave, or knowingly to aid a deserter or absentee without leave

1957, s. 97).

Property of Her Majesty's Forces. Under s. 195, Army and Air Force Acts, 1955 and s. 98 of the Naval Discipline Act, 1957, it is a summary offence to have any illicit dealings with any property of H.M. Forces. See also "Public Stores", Chap. 18.

Such illicit dealing include any

(1) Buying, exchanging, taking in pawn, detaining or

receiving same from any person on any pretence whatever;

(2) Soliciting or enticing any person to sell, exchange, pawn or give away same; and

(3) Assisting or acting for any person in selling, exchanging, pawning or making away with same.

It will be a good defence for accused to prove that he acted in ignorance of the same being such property as described above, or that same was duly sold by the authorities, or that same was the personal property of an ex-member of the Forces.

any person, he may be brought before a Magistrates' Court, and if the Court has reasonable ground to believe that the property was illegally obtained as above he may be convicted unless he satisfies the Court that he came by the property lawfully.

A Magistrates' Court may issue a warrant to search for such property as in the case of stolen goods.

Any person found committing the above offence may be arrested without warrant, and any person to whom any such army property is offered may, and should, arrest the person offering same for sale, pawn or delivery (Army and Air Force Acts, 1955, s. 195 and Naval Discipline Act, 1957, ss. 98 and 106).

An offence by a serving soldier in connection with government property at his barracks or camp should be dealt with by his commanding officer under military law (*R. v. Kirkup* (1950)).

Pensioners. In general, the making of any false statement or the supplying of any false information in connection with pensions, allowances, etc., is a summary offence.

It is a summary offence for any person to receive, detain or have in possession, as a pledge or security for a debt, any official document or certificate issued in connection with the right of any person to pension, pay, allowances, etc., in connection with service in Her Majesty's Forces. (For a similar provision as regards pensions for civil non-effective services see C.J. Act, 1925, s. 37). It is also a summary offence for any person, without lawful authority or excuse (the proof of which shall lie on such person), to have in his possession any such official document or certificate or any certificate of discharge or any other official document issued in connection with the mobilisation or demobilisation of any of Her Majesty's Forces or its members (Army and Air Force Acts, 1955, s. 196, and Naval Discipline Act, 1957, s. 99).

Uniforms. Under the Uniforms Act, 1894, it is a summary offence for any person not serving in the Military (or Air) Forces to wear without Her Majesty's permission the uniform of any of these Forces, or any dress having the appearance of or bearing any of the regimental or other distinctive marks of such uniform.

However, this prohibition of the unauthorised use of military uniform is not to prevent any person wearing any uniform in a stage play, music hall, circus, or *bonafide* military representation.

It is also a summary offence for any person not serving in Her Majesty's Naval or Military (or Air) Forces to wear any such uniform or dress resembling same, in such a manner and under such circumstances as to be likely to bring contempt on that

382 PART VI. OTHER OFFENCES AND REGULATIONS

The above provisions apply to horses, aircraft, food, forage and stores as they apply to vehicles (s. 172).

Incitement to Disaffection Act, 1934. The offences under this Act are as follows:

(1) Maliciously and advisedly to endeavour to seduce any member of H.M. Forces from his duty or allegiance to Her Majesty (s. 1).

(2) With intent to commit or to aid, abet, counsel or procure the commission of any offence under s. 1, to have in possession or under control any document of such a nature that the dissemination of copies thereof among members of H.M.

Forces would constitute such an offence (s. 2).

No prosecution under the Act shall take place without the consent of the Director of Public Prosecutions, to whom any case must be reported (see Appendix III).

An offender is liable on conviction on indictment to two years imprisonment or £200 fine or both, or on summary conviction to four months' imprisonment or £20 or both, and the Court may order destruction, etc., of documents (s. 3).

If a Judge of the High Court is satisfied by information on oath that there is reasonable ground for suspecting that an offence under the Act has been committed and that evidence of the commission thereof is to be found at any premises or place specified, he may grant a search warrant authorising entry, search and seizure in accordance with the section.

of proceedings commenced within that period, and the Police Property Act, 1897, shall apply to such property (s. 2).

Chapter XXXI

DEALERS

Contents

	Page	
Marine store dealers		Game dealers
Pawnbrokers		Money-lenders . . . 391
		Police prosecutions . . . 392
		Domestic servants' registries 392
Hawkers		Dealers in securities . 393
		Mock Auctions . . 395

Dealers In Old Metals and

Marine Store Dealers. The

Old Metal Dealers Act, 1861, s. 3, defines a "dealer in old metals" as a person dealing in, buying and selling old metal, scrap metal, broken metal, or partly manufactured metal goods, or defaced or old metal goods, and whether such person deals in such articles only or together with second-hand goods or marine stores. (The

1871.) The term "old metal" means the articles above mentioned. Merchant Shipping Act, 1894, s. 538, defines a "marine store dealer" as a person dealing in, buying or selling anchors, cables, sails, old junk or old iron or other marine stores of any kind.

In every district in which s. 86 of the Public Health Acts Amendment Act, 1907, has been adopted and advertised by the Local Authority under order of the Secretary of State, every person who carries on business as a "dealer in old metal" or as a "marine store dealer" must register his name and abode and his places of business with the Local Authority, and must keep in a book the description and price of all articles purchased or otherwise acquired by him, and the name, address and occupation of the person from whom same were obtained. Failure to do so is a summary offence.

Any person duly authorised in writing by the Local Authority, on production of such authority, must be allowed free access at all reasonable times to all such places of business to inspect same and the books. Any obstruction of such officer is a summary offence.

Children and Young Persons Act, 1933, s. 9: It is an offence for a "dealer in old metals" or a "marine store dealer" to purchase any "old metal" from any person apparently under the age of sixteen years, whether such person offers it for sale on his own behalf or on behalf of any other person. Old metal includes the articles mentioned above.

384 PART VI. OTHER OFFENCES AND
REGULATIONS

Dealers in Old Metals. Prevention of Crimes Act, 1871, s. 13: It is an offence for any dealer in old metals, personally or by any servant or agent, to purchase, receive or bargain for, any of the

tin, pewter, german silver or spelter 56 IDS., or any composite mainly composed of any such metals.

Old Metal Dealers Act, 1861. s. 4: A Justice, on sworn information made on reasonable belief that old metal stolen or unlawfully search warrant to enter such place in the daytime and search for

to
prove how he came by the said articles.

If any dealer be found in possession of old metal stolen or unlawfully obtained and is taken or summoned before two Justices and it is proved to their satisfaction that at the time he unlawfully obtained, he is liable to fine, and to imprisonment for

S. 5: When a metal dealer has been so convicted, the Court

S. 6: Such a compulsorily registered dealer must give notice to the police of any removal of his place of business, and under s. 7 the Justices may authorise police officers to visit his place of business and inspect his books and goods.

S. 8: Such a registered dealer must keep books recording all old metal purchased and sold, and the names of persons from whom purchased or received. He must not make purchases between 6 P.M. and 9 A.M. He must not part with metals within forty-eight hours. He must not purchase from persons under sixteen, and must not employ persons under sixteen to purchase or receive old metals. See Stone, under title "Metals".

Marine Store Dealers. Merchant Shipping Act, 1894. s. 538. Every such dealer as defined above must have his name and the words "Dealer in Marine Stores" painted in letters not less than 6 in. in length on his business premises.

S. 539: He must keep books and enter therein every article of marine stores with time at which received and name, occupation and address of the person from whom purchased or received.

S. 540: He or his agent must not purchase marine stores from any person apparently under sixteen.

S. 541: He must not cut up or unlay any cable or like article exceeding 5 fathoms (30 ft.) in length, without written permit from a Justice.

S. 542: The maker of any anchor must mark on it his name or initials, with a number and the weight.

Pawnbrokers. A pawnbroker is a person who carries on the business of taking goods and chattels in pawn, and the term includes any person who keeps a shop for the purchase or sale

not exceeding £50, on agreement expressed or implied that these articles may afterwards be redeemed or re-purchased on any terms. See ss. 5 and 6 of the Pawnbrokers Act, 1872, which with the Pawnbrokers Act, 1960, is the Act dealing with the pawning or pledging of articles and the licensing of pawnbrokers.

Licence. A pawnbroker must take out yearly an excise licence;

1949, s. 15) for each shop kept by him. This excise licence cannot be issued without the production of a certificate granted by the local Council (see s. 27, Local Government Act, 1894), or stipendiary magistrate, except in the case of pawnbrokers licensed on December 31, 1872, or their successors, who can take out excise licenses without the annual certificate (ss. 37 to 41).

Any person who intends to apply for the first time for this certificate must give notice to the police and to the Council and

character or the fact that his shop or any adjacent premises

bad character would be good grounds on which his application might be refused (s. 43). The forgery or the knowingly tendering

summarily under the Act (s. 44).

Premises. A pawnbroker must have his name and the word " Pawnbroker " over the outer door of his shop. He must keep in a conspicuous place in his shop the book of rates containing the information required to be printed on pawn-tickets (s. 13). He must keep and use a pledge book, pawn-tickets and a sale book of pledges, together with declaration forms and receipt forms,

required by a Court (s. 50).

He must not carry on the business of a pawnbroker on Sunday, Good Friday or Christmas Day (s. 32).

Pledges. A pawnbroker must give a pawn-ticket for every
tion.

His profit must not exceed that laid down by the Act (see also Pawnbrokers Act, 1960), but if the loan is over £5 he can make a special contract (ss. 15 and 24).

Every pledge is redeemable within six months and seven additional days of grace. After this period an unredeemed pledge

386 PART VI. OTHER OFFENCES AND
REGULATIONS

which has been pawned for 40\$. or under becomes the pawnbroker's absolute property, but a pledge for over 40s. must be sold by public auction (ss. 16, 17, 18 and 19).

If a pledge for over 40s. has been sold, the pawner within three years may inspect the auctioneer's books and recover any surplus from the pawnbroker, who is bound to act *bona fide* in respect to such a sale (ss. 21, 22 and 23).

The holder of a pawn-ticket is presumed to be the person entitled to redeem the article concerned, and the pawnbroker must deliver the pledge to the person producing same on payment of the loan and profit (ss. 25-31).

The pawnbroker is not bound to deliver back a pledge unless the pawn-ticket is delivered to him, but if the ticket is lost, destroyed, stolen or fraudulently taken away, the owner may make a declaration (on a form to be supplied by the pawnbroker) before a Justice and redeem his pledge (ss. 25 and 29).

A pawnbroker must not, under any pretence whatever, purchase, except at public auction, any pledge while in pawn with him, nor must he suffer a pledge to be redeemed from him with a view to his purchasing it, nor must he make any agreement with the pawner for its purchase, sale or redemption within the time of redemption (s. 32).

He must not sell or dispose of any pledge except as authorised by the Act (s. 32).

Prohibitions on Pawning. A pawnbroker must not take in pawn

(1)

(2) Any article from anyone under fourteen years of age (Children and Young Persons Act, 1933, s. 8).

(3) Any firearm or ammunition to which Part I of the Act applies (Firearms Act, 1937, s. 14).

(4) Any linen, apparel or unfinished goods entrusted to any person to wash, mend, make up, etc. (s. 35).

(5) Any arms, military stores, etc., from a soldier or airman or from any person acting on his behalf (Army and Air Force

(6) Another pawnbroker's ticket, nor can he purchase or exchange same (s. 32).

Pawning Offences by Persons not Pawnbrokers:

(1) Unlawfully pawning the property of another without the authority of the owner (s. 33). (If done with intention to deprive the owner of his property and the pawner does not intend to redeem it, it is larceny.) See "Larceny", Chap. 14.

(2) Offering in pawn an article and being unable or refusing to give a satisfactory account of the possession thereof (s. 34).

(3) Wilfully giving false information to a pawnbroker as to the ownership of the article offered in pawn, or as to pawner's

name and address or as to name and address of the owner of the article (s. 34).

(4) Attempting to redeem a pledge, not being entitled to do so (s. 34).

(5) Assisting or acting for a soldier in pawning any military or air force stores (Army and Air Force Acts, 1955, s. 195).

Powers of a Pawnbroker. A pawnbroker may detain and hand over to the police

(1) Any person committing any of the last four offences (Nos. (2) to (5)) mentioned above.

(2) Any person offering in pawn any article which he reasonably suspects to have been stolen or illegally or clandestinely obtained (s. 34).

(3) Any person who produces to him a pawn-ticket which he reasonably suspects to have been forged or altered (s. 49).

Any person so detained should be delivered into the custody of the police, to be conveyed before a Justice for trial. The Court can compensate such pawnbroker for his expenses, trouble and loss of time (s. 34).

General. On information sworn by the owner of any article on good cause of suspicion, a Justice can issue a warrant authorising a constable to search, within the hours of business, a pawnbroker's shop, for any article unlawfully pawned. If entry is refused the constable may break in and search, doing no wilful damage (s. 36).

If a pawnbroker is convicted on indictment of any fraud in his business or of receiving stolen goods knowing them to be stolen, the Court before whom he is convicted may forfeit his licence (s. 38).

S. 30 of the Act empowers a Court to order restoration to the owner of goods unlawfully pawned. See " Restitution of Stolen Property ", Chap. 18.

All offences against this Act may be dealt with summarily, and the general penalty is a fine not exceeding £10.

Pedlars. Under the Pedlars Act, 1871, a pedlar is any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs or other person who, without any horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares or merchandise immediately to be delivered or offering for sale his skill in handicraft (s. 3).

It is an offence to act as a pedlar without a certificate (1871 Act. s. 4).

Such a certificate is granted by a chief officer of police when he is satisfied that the applicant

(1) Has resided in his district during one month previous to his application;

388 PART VI. OTHER OFFENCES AND
REGULATIONS

- (2) Is over seventeen years of age;
- (3) Is a person of good character; and
- (4) In good faith intends to carry on the trade of a pedlar.

The certificate remains in force for one year from date of issue, and authorises the person to whom granted to act as a pedlar within any part of the United Kingdom (1871 Act, ss. 5, 6 and Pedlars Act, 1881).

It is a summary offence to make false representations to obtain a certificate or to forge or use any counterfeit certificate (1871 Act, s. 12). It is also an offence to lend, transfer or borrow a pedlar's certificate (1871 Act, ss. 10 and 11).

Any convictions under the Pedlars Acts are to be endorsed on the certificate, and a Court has power, when satisfied a holder is not in good faith carrying on the business of a pedlar or when he is convicted of any offence, to deprive him of his certificate.

If he is convicted of begging the Court must take away his certificate (1871 Act, s. 16).

The following need not have a pedlar's certificate

- (1) Commercial travellers;
- (2) Book agents authorised in writing by the publishers of such books;
- (3) Sellers of vegetables, fish, fruit or victuals; and
- (4) Sellers in legally established public fairs or markets (1871 Act, s. 23).

A pedlar is bound at all times, on demand, to produce and show his certificate to

- (1) Any Justice,
- (2) Any constable or officer of police,
- (3) Any person to whom he offers his goods for sale,
- (4) Any person in whose private grounds or premises he is found.

Refusal or failure to do so is a summary offence (1871 Act, s. 17).

Any person acting as a pedlar, who has no certificate or who refuses to show his certificate, may be arrested by any person to whom he is bound to produce his licence, and brought before a Justice (1871 Act, s. 18).

Any constable or officer of police is empowered at any time to open and inspect any pack, box, bag, trunk or case in which a pedlar carries his goods. If a pedlar refuses to allow such inspection or prevents or attempts to prevent it, he may be arrested (s. 18) and fined (s. 19, 1871 Act).

Under s. 3 of the Vagrancy Act, 1824, every petty chapman or pedlar wandering abroad and trading without being duly licensed or otherwise authorised by law, may be arrested and dealt with as an idle and disorderly person (see Chap. 27); but the holding of a certificate does not help if his conduct brings him within ss. 3, 4 5, of the Vagrancy Act, 1824 (1871 Act, s. 13).

Hawkers. A "hawker", under s. 2 of the Hawkers Act, 1888, means any person who travels with a horse or other beast bearing or drawing burden, and goes from place to place or to other men's houses, carrying to sell or exposing for sale any goods, wares or merchandise, or exposing samples or patterns of any goods, wares or merchandise to be afterwards delivered, and includes every person who travels by any means of locomotion to any place in which he does not usually reside or carry on business,

in or at any house, shop, room, booth, stall or other place whatever, hired or used by him for that purpose. A motor vehicle would not appear to be a "stall".

Every such hawker must take out a licence from the County or County Borough Council (Finance Act, 1949, s. 15) and it lasts one year.

This excise licence is granted, otherwise than on renewal, on production of a certificate of good character signed by a clergyman and two householders of the parish in which the applicant resides or by a Justice or superintendent or inspector of police of the district (s. 4). It is a summary offence to forge any certificate for obtaining a hawker's licence or to knowingly make use of any counterfeit certificate or licence (s. 4) or to let to hire or lend

A servant may travel with his master's licence and trade for his master's benefit, but it is an offence for any person to trade with a licence granted to any person other than his master (s. 5).

Every hawker must have his name and the words "Licensed Hawker" upon every box or package and vehicle used for the carriage of his goods, and upon every room or shop in which his goods are sold, and upon every handbill or advertisement which he distributes or publishes. It is an offence for any person not licensed as a hawker to use the words "licensed hawker" or any words importing that he trades as a hawker or is licensed to do so (s. 5).

The following need not take out hawkers' licences:

- (1) Commercial travellers;
 - (2) The real worker or maker of goods and his family, selling goods made by them;
 - (3) Sellers of fish, fruit, victuals or coal, and
 - (4) Sellers in any legally established public market or fair
- (s. 3).

hawking of bibles, prayer books, etc., and the exchanging of sundries for rags, bones, etc., are treated as exempt from the Hawkers Act.

It is a summary offence for any person to do any act for which a licence under this Act is required

- (1) Without having a proper hawker's licence in force, or

(2) Without, at once on demand by any person, producing a current hawker's licence granted to him or to his master. Any constable may arrest such person and bring him before a Justice, who may deal summarily with him (s. 6).

Other Hawkers. Customs and Excise Act, 1952, s. 161: Hawking spirits or selling same otherwise than in premises licensed for the sale of spirits is an offence and the offender may be arrested.

Customs and Excise Act, 1952, s. 189: It is an offence for any person to hawk, sell or offer for sale any tobacco or snuff in any place except on his premises licensed for the purpose.

Explosives Act, 1875, s. 30: It is an offence to hawk, sell or expose for sale gunpowder upon any highway or public place.

The hawking of petroleum must be conducted in accordance with the regulations as to its safe conveyance. See Chap. 33.

The conduct and location of street hawkers may be governed by local byelaws and regulations.

It is an offence (Highways Act, 1959, s. 127) for any hawker to pitch any tent, booth, stall or stand on any part of the highway.

Game Dealers. Before a person may deal in game he must procure

(1) A local licence from the local Borough or District Council (Local Govt. Act, 1894, ss. 27, 32) and then

(2) An excise licence (which expires on July 1) taken out at the Post Office.

A Council may not grant a game dealer's licence to an inn-keeper, a retail beer-seller, a carrier or higgler, an owner, driver or conductor of a public conveyance or mail letter vehicle, or any person in the employ of any of these persons (Game Act, 1831, s. 18, and Game Licences Act, 1860).

Game under the Game Act, 1831, includes hares, pheasants, partridges, grouse, heath or moor game and black game and a game dealer's licence is necessary to deal in such game imported from foreign countries.

A licence is not necessary to deal in snipe, woodcock, quail, landrail, rabbits or deer.

Under the Game Act, 1831, a game dealer's licence is granted for a specified premises, outside of which a board must be fixed indicating that the person named is a licensed dealer, and he must not sell game elsewhere than at such premises (s. 28). He must not

the expiration of ten days after the end of the open season for such bird. Any other person must not buy or sell such a bird after the same period, or knowingly have same in possession (except for breeding purposes) after the expiration of forty days after the open season (s. 4). See Chap. 19.

Money-lenders. " Money lender ", as denned in the Money-lenders Act, 1900, includes every person whose business is that

on that business, but does not include a pawnbroker, banker, insurance agent, or person whose primary business is not that of lending money, nor does it include certain registered societies and corporations.

The Money-lenders Act, 1927, and the Money-lenders Rules, 1927 made under that Act, regulate the conditions under which a person may carry on the business of a money-lender.

Every money-lender must each year obtain a certificate from the Magistrates' Court of the district in which his business is to be carried on (s. 2).

He must also take out a money-lender's excise licence each year from the local Council or Borough Council (Finance Act,

described above (s. 1).

To obtain a certificate, he must lodge a statement of application, giving the prescribed particulars, with the Clerk to the Justices, and two weeks before the hearing he must send a copy of this statement to the chief constable. He must also, except

The Court may refuse to grant a certificate if satisfactory evidence of good character is not produced, or if it is proved that he is not a fit and proper person, or if he is disqualified or has not complied with the rules (s. 2).

A money-lender must take out his excise licence in his true name (s. 1), and his certificate must show his true name and the name under which and the address at which he is authorised to carry on the business of a money-lender (s. 2).

His advertisements and business documents must give his authorised name, and they must not in any way imply that he carries on banking business (s. 4).

A person must not send or cause to be sent to any person except in response to his written request, any circular or other document advertising the name, address, or telephone number of a money-lender, or containing an invitation to borrow or take any steps as to borrowing money from a money-lender. It is permissible to advertise in the public press or by poster exhibited at an authorised address, provided that the advertisement is restricted to the giving of the money-lender's authorised name and address and stating that he lends money, etc.

A money-lender must not employ an agent or canvasser for his business, and no person must act as such (s. 5). Any contravention of s. 5 is a misdemeanour which may be dealt with summarily.

The Act provides for the form of money-lenders' contracts, prohibits compound interest on loans, directs that written

392 PART VI. OTHER OFFENCES AND REGULATIONS

particulars of loans shall be supplied, declares that interest exceeding the rate of 48 per cent, will be presumed excessive, and prohibits the charging of expenses on loans (ss. 6-12).

The time for taking proceedings in respect of money lent by money-lenders is limited to twelve months, with certain exceptions (s. 13).

Special provisions are made as regards pawnbrokers' loans (s. 14).

Offences under the Act may be dealt with summarily, and the Court must endorse convictions on the certificates. The Court may also suspend or forfeit certificates and may disqualify a person from obtaining a certificate (s. 3). Persons whose money-lenders' certificates have been refused or suspended or forfeited, or who have been disqualified from obtaining certificates, have the right of appeal (ss. 2 and 3).

Money-lenders Act, 1900, s. 4: It is a misdemeanour for money-lender or his agent, by false statements or misrepresentations, to fraudulently induce or attempt to induce any person to borrow money or to agree to the terms on which money is to be

Betting and Loans (Infants) Act, 1892: It is a misdemeanour for anyone for profit to knowingly send to an infant (under twenty-one years of age) any document inviting him to borrow money (s. 2). It is also a misdemeanour for anyone, except under the authority of a Court, to solicit an infant to make an affidavit or statutory declaration in connection with any loan (s. 4). Both these misdemeanours may be dealt with summarily.

Companies Act, 1948, s. 201: Every company licensed under the Money-lenders Act, 1927, shall in its business letters, catalogues, circulars and showcards give particulars similar to those required by s. 18 of the Registration of Business Names Act, 1916 (see Chap. 32). The consent of the Board of Trade is necessary for prosecution of this summary offence.

Police prosecutions. A local authority may authorise the bringing by any constable of proceedings for an offence under the Excise Acts relating to any duty of excise the levying of which has been transferred to the Authority with respect to licences for dealing in game, killing game, guns, hawkers, moneylenders, pawnbrokers and refreshment houses. (Finance Act, 1961, s. 11).

Domestic Servants' Registries. In every district in which s. 85 of the Public Health Acts Amendment Act, 1907, has been adopted by the Local Authority, every person who carries on for the purpose of private gain the business of keeper of a female domestic servants' registry, must register his name, address and premises where such business is carried on, with the Local Authority.

The Local Authority may make byelaws prescribing the books to be kept and regulating the conduct of such business.

Any person duly authorised in writing by the Local Authority must at all reasonable times be afforded full and free power of entry into such registered premises to inspect such premises and the books required to be kept by byelaw.

It is a summary offence to carry on such business without being registered under this section, to refuse entry as above authorised, to contravene any byelaws made under this section, or to neglect to have a copy of such byelaws hung up in a conspicuous place in the registered premises, and in addition to or in lieu of any pecuniary penalty, the Court may suspend or cancel the registration.

Dealers in Securities. The business of dealing in securities is regulated by a licensing system which came into operation on 8 August, 1944, under the Prevention of Fraud (Investments) Act, 1939. That Act, as amended, has been repealed and consolidated by an Act of the same name passed in 1958.

By s. 26 of the 1958 Act "Dealing in securities" means making or offering to make with any person or inducing or attempting to induce any person to enter into or offer to enter into (a) any agreement for or with a view to acquiring, disposing of, subscribing for or underwriting securities, or lending or depositing money to or with any industrial and provident society or building society, or (6) any agreement the purpose or pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities.

"Securities" means (a) shares or debentures or rights or interests in same; (6) securities of the Government of any part of H.M. Dominions or the government of any foreign state; (c) rights in respect of money lent to or deposited with any industrial and provident society or building society, including those under any unit trust scheme (s. 26).

except he has a *principal's licence*, or act as a servant or agent in such business unless he has a *representative's licence*. Any contravention is punishable summarily or on indictment, but proceedings (except arrest, warrant or remand) require the consent of the Board of Trade or of the Director of Public Prosecutions. (See Appendix III.)

S. 2: There are many exceptions to this necessity for licences, including members of Stock Exchanges or of associations of dealers in securities (which are recognised by the Board of Trade; see s. 15); the Bank of England; any statutory or municipal corporation; any dealer exempted by the Board of Trade (see s. 16); any industrial and provident society (see s. 10); any building society (see s. 11); any manager or trustee under a unit trust scheme authorised by the Board of Trade (see s. 17), and the section also exempts certain actions by persons under certain given circumstances.

394 PART VI. OTHER OFFENCES AND REGULATIONS

These licences are grantable by the Board of Trade, who have power to refuse and revoke them (ss. 3-6), and to make rules

Licence holders have to supply information (s. 8) and the names and addresses of holders of licences have to be published (s. 9).

S. 13: It is an indictable offence, punishable by penal servitude not exceeding 7 years, for any person to induce or attempt to induce another person to invest money, by any statement, promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making of any statement, promise or forecast which is misleading, false or deceptive.

Any person guilty of conspiracy to commit this offence shall be similarly punishable.

S. 14: On or after the day appointed by the Board of Trade (8 August, 1944) it has been an offence punishable summarily or on indictment, for any person to distribute, cause to be distributed or have in possession for distribution, any documents which to his knowledge are circulars inviting or inducing persons to invest money in securities. This does not apply to a proper prospectus complying with the Companies Act, 1948, or to circulars sent by licensees or persons exempted from licence by the Act.

Proceedings (apart from arrest or remand) require the consent of the Board of Trade or the Director of Public Prosecutions.

A Justice has power to grant a search warrant for such documents, to which the Police (Property) Act, 1897, applies, subject to orders of a Court.

S. 18: It is an offence punishable summarily or on indictment to knowingly furnish information, as required under the Act, which is false in a material particular.

against the Act.

S. 20: Summary proceedings under the Act may be taken in the place where the alleged offender is for the time being.

Under the Prevention of Fraud (Investments) Act Licensing Regulations of 1944 (continued in force under the 1958 Act), applications for principals' and representative's licences must be made to the Board of Trade on the prescribed forms accompanied by the prescribed statutory declarations. Any change in the particulars which are required must be notified to the Board of Trade.

The Licensed Dealers (Conduct of Business) Rules 1960, regulate the conduct of business of licensed dealers, that is the holders of principal's licences, who are described as " licensed dealers in securities ".

If a licensed dealer in writing offers to acquire or dispose of securities he must give the information prescribed, and he must

issue a contract note giving the prescribed particulars in case of a sale or purchase of securities.

He must keep books of account, and a record of every transfer

He must not deal on terms involving payment by instalments unless the prescribed conditions are fulfilled.

Mock Auctions Act, 1961. It is an offence to promote or conduct, or to assist in the conduct of, a mock auction, at which one or more lots prescribed in the Act are offered for sale. (s. 1 (1))

The prescribed articles are:- plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of

instrument or apparatus, (s. 3 (2)).

A sale of goods by way of competitive bidding is a mock auction

bidder, either at a price lower than his highest bid, or part of the price at which it is sold to him is repaid, or credited to him, or is stated to be so repaid or credited; or (b) the right to bid is restricted, or stated to be restricted to persons who have bought, or agreed to buy one or more articles, or (c) any articles are given away or offered as gifts, (s. 1 (3)).

A sale of goods is not a mock auction if it is proved that the reduction in price, or the repayment or credit, (a) was on account of a defect discovered after the highest bid in question had been made, being a defect of which the auctioneer was unaware when the bid was made, or (b) was on account of damage sustained after that bid was made. (s. 1 (4)).

Chapter XXXII**TRADE**

Contents

			Page
Printing	396	Food and drugs	.
and publishing Trade	397	400	.
marks Hall-marks	397	. 4 0 1 Trading	
Weights and measures	398	representations	
	399		

Business Names. The Registration of Business Names Act, 1916, directs that every person or firm having a place of business in this country and carrying on any business or profession (s. 22) under a business name which does not consist of the true sur-
corporation, must register under this Act (s. 1).

Registration is effected by sending the prescribed particulars

business. Any change in the particulars of registration should

which must be exhibited in a conspicuous position at the principal place of business. He can refuse registration (Companies Act, 1947, s. 116).

Every person or firm required under this Act to be so registered must mention in business letters, catalogues, circulars, and show-cards, on which the business name appears and which are sent to any person, the present surname (with Christian name or initials), any former Christian name or surname and the nationality or profession (s. 18).

business letters, etc., which it issues or sends to any person in any necessary for prosecution (Companies Act, 1948, s. 201).

It is an offence punishable by fine (summarily, s. 442) for anyone to trade under any title of which " Limited " or any contraction of that word is the last word, unless duly incorporated (as a company) with limited liability (Companies Act, 1948,

s. 439). The Companies Act, 1948, gives a number of offences which might be committed by officers of companies and allows proceedings for any offence under the Act to be taken by the Director of Public Prosecutions or by the Board of Trade at any time within 12 months of discovery of the offence and not exceeding 3 years from the commission of the offence.

Printing and Publishing. It is a summary offence for any person to print any paper or book meant to be published or dispersed, without putting his name and address thereon, or to publish or disperse copies of same. Certain works are excepted, including address and business cards, price lists, sale catalogues of goods or estates, law proceedings, papers printed by authority of any public board or public office in the discharge of their duties.

An information for this offence must be in the name of the Attorney-General or Solicitor-General (Newspapers, Printers, and Reading Rooms Repeal Act, 1869). Provision for relaxing certain requirements of the Act of 1869 is made by the Printer's Imprint Act, 1961. See Stone, under title "Printers".

Trade Marks. A trade mark means a mark to be applied to goods which are the subject of trade, manufacture, or merchandise, and which is duly registered in the Register of Trade Marks. It is the property of its owner, and the Merchandise Marks Acts and Trade Marks Acts protect owners and the public against any fraudulent or improper use of trade marks.

It is an offence to forge any trade mark or to falsely apply to goods any trade mark or to apply any false trade description to goods or to fraudulently sell goods with false trade marks or false descriptions (Merchandise Marks Acts, 1887 and 1953).

Subject to the provisions of s. 6 of the Geneva Conventions Act, 1957, it shall be a summary offence to use for any purpose whatever,

(1) Without the authority of the Army Council:

(a) the emblem of a red cross with vertical and horizontal arms of the same length, on and surrounded by a white ground, or the designation "Red Cross" or "Geneva Cross".

(b) the emblem of a red crescent moon on, and surrounded by a white ground, or the designation "Red Crescent".

(c) the emblem in red surrounded by a white ground of a lion passing from right to left of the observer, holding a scimitar in its right forepaw, with the upper half of the sun shooting forth rays above the lion's back, or the designation "Red Lion and Sun".

(2) Without the authority of the Board of

Trade: Any

design of a white or silver cross with vertical and horizontal arms of the same length, on and surrounded by a red ground, being the heraldic emblem of the Swiss Confederation, or any other design so nearly resembling it which might be mistaken for it.

398 PART VI. OTHER OFFENCES AND
REGULATIONS

In such cases the consent of the Director of Public Prosecutions must be obtained before prosecution.

Medical units of H.M. Forces use the Red Cross. The British Red Cross Society is the only voluntary organisation which has and the words " Red Cross " in the United Kingdom in time of peace.

Hall-marks. Hall-marks are the marks on gold and silver wares which indicate that the metal therein is of the requisite standard of purity, also the date and place of testing.

For unlawfully dealing with hall-marks see " Forgery ", Chap. 17.

Pure or fine gold or silver is rather soft and does not wear well, and an alloy or small quantity of baser metal is added to render it harder and more durable. To check fraud, the law makes it compulsory that gold and silver domestic plate and watch cases and 22 carat gold wedding rings should be assayed (or tested) and hall-marked. Such articles must be sent to an Assay Office, where they are tested to ascertain the proportion of gold or silver therein and duly stamped with the hall-marks.

There are five Assay Offices, viz. London, Birmingham, Sheffield, Edinburgh, and Glasgow.

The hall-marks for gold and silver articles are as follows:

(1) The **standard** mark, showing the amount of pure metal in the article.

(2) The hall-mark proper, which is the local town or city mark, showing where the article was assayed and stamped.

The following hall-marks are now in use:

Leopard's head for London; anchor for Birmingham; York rose for Sheffield (gold only); crown for Sheffield (silver only); castle with three towers for Edinburgh; tree, fish, bell and bird for Glasgow; The Chester Assay office was closed in 1962. Its hall-mark was a dagger between three wheat sheaves.

(3) The **date** mark, which consists of one letter of the alphabet. Each Assay Office has its own set of letters and can tell the date of stamping an article by the letter on it.

(4) The maker's mark, which consists of two or more letters, being the initials of the firm, the proprietor or the partners of the firm.

Formerly there was also a " duty mark ", the King's head, but the duty on plate and the duty mark were abolished in 1890.

Gold Articles. Standard or sovereign gold consists of 22 carats (or parts) fine or pure gold and 2 carats alloy, in every 24 carats. The term "carat" is not a real weight for gold; it is used merely to denote the quality.

In gold plate four standards are now allowed, viz. 22, 18, 14,

and 9 carat. These standards are shown by figures on the gold articles, with a crown in the case of 22 and 18 carat gold.

For London, Birmingham and Chester the crown is the standard mark for 22 and 18 carat gold. A piece of 22 or 18 carat gold plate assayed at one of these offices would bear thereon a crown and the figures 22 or 18. The crown is not stamped on articles of lower standards. 14 and .585 in rectangles indicate 14 carat gold. 9 and .375 in rectangles means 9 carat gold. (Gold Wares (Standard

Therefore a piece of 18 carat gold plate assayed in Birmingham should bear the following hall-marks: a crown and the figures 18, both in rectangles, an anchor, a letter of the alphabet, and the maker's initials.

If stamped in London the same marks would be used, with the exception of the hall-mark proper, a leopard's head being used instead of an anchor.

It should be noted that a lion passant (or walking) was the 22 carat gold standard mark up to the year 1844, but in that year it was replaced by the crown and 22. For 18 carat gold the standard mark since 1798 has been the crown and 18.

Silver Articles. The standard for silver articles is 11 oz. 2 is equivalent to 0.925 pure silver. This is known as sterling silver.

There is also a higher standard which is 0.959 pure silver, viz. 11 oz. 10 dwts. pure silver and only 10 dwts. of alloy. Such silver is known as Britannia silver and bears the figure of Britannia. It, however, is too soft and is seldom met with. This higher standard was compulsory from 1697 to 1720, and silver plate of that time is known as Queen Anne silver.

The standard mark for silver is the lion passant (or walking).

Silver articles should also bear local hall-marks, date marks and makers' marks similar to those on gold articles.

bear the following hall-marks: Lion passant, anchor, date letter and initials of maker.

It is not compulsory to hall-mark gold and silver watch chains.

Weights and Measures. By law a uniform system of weights and measures must be used for trade purposes throughout the country. See the Weights and Measures Acts, 1878 to 1936.

The Weights and Measures Act, 1878, prescribes this uniform system of what are termed imperial weights and measures.

It is a summary offence to sell by any weight or measure which is not one of the imperial weights or measures (s. 19).

gold, diamonds and other precious metals and stones may be sold by troy weight, and drugs may be sold by apothecaries' weight (s. 20).

Every weight and measure used for trade must be verified as correct and must be stamped accordingly (s. 29).

It is a summary offence to use or have in possession for use for trade, any false or unjust or unstamped or unauthorised weight

Any wilful fraud in the use of any weight or measure is a

direct from the colliery with written consent of the purchaser. A weight ticket must be delivered with coal where the quantity delivered by any vehicle exceeds 2 cwt. (1889 Act).

Inspectors are appointed by Local Authorities to enforce these statutes regarding weights and measures. The inspectors keep the local standard weights and measures, verify and stamp weights and measures, and inspect trade premises to examine the weights and measures therein.

Food and Drugs. The law designed to ensure that articles consumed by the people shall be wholesome and shall not be sold to the prejudice of the purchasers has been consolidated by the Food and Drugs Act, 1955, followed by the Food Hygiene Regs., 1955. " Food " includes every article used for food or drink by man other than drugs and water, and includes articles used in the preparation of human food (1955 Act, s. 135).

" Food " includes drink, chewing gum, and other products of the like nature and use, and substances used as ingredients in the preparation of food or drink or of such products but does not include (a) water, live animals or birds (b) fodder feeding stuffs for animals, birds or fish (c) articles or substances used only as drugs (1955 Act, s. 135).

It is a summary offence to mix, with a view to sale, anything with any article of food so as to render it injurious to health, or anything with any drug or medicine (except by way of compounding) so as to injuriously affect its quality or potency or to sell or have for sale any such article (1955 Act, s. 1). It is also an offence, generally speaking, to sell to the prejudice of the purchaser any article of food or any drug, which is not of the nature, substance or quality of the article demanded by the purchaser (1955 Act, s. 2).

These are the main offences regarding the adulteration of food and drugs.

This Act also deals with unsound food, prevention of contamination of food, false warranty, false labels, hygiene in sale of food, etc., etc.

The Act is enforced by Local Authorities who appoint inspectors for the purpose. Public analysts are also employed